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THE SOLICITORS' JOURNAL.

LONDON, JULY 7, 1860.

CURRENT TOPICS.

It will be seen that the Attorney-General has definitively announced his intention to relinquish for the present session his Bill relating to Land Transfer; and although the Government proposes to press on the Bankruptcy and Insolvency Bill, its fate must at present be considered to be very uncertain; as it will be impossible to discuss properly its numerous important provisions in the very short time which can be devoted to their consideration during the remainder of this session. However well considered may have been the general features of the Bill—and no doubt Sir Richard Bethell has assiduously devoted himself to the subject—there are very many questions involved in it which demand anxious and careful consideration before it receives the sanction of Parliament. To go no further than the important question involved in the 514th section, on which Mr. William Ford (Messrs. Rogerson & Ford) has published some very telling but temperate remarks, the body of English solicitors have certainly a right to expect that they shall not be deprived of their right to conduct bankruptcy cases in open court, unless good cause can be shown for such a proceeding. We believe that it is the opinion of those who are most competent to form an opinion upon this subject, that the right of solicitors to plead before Courts of Bankruptcy is indispensable to the due administration of justice in those courts. We have been favoured with a copy of a letter from one of the learned Commissioners—one, perhaps, whose opinion would have the greatest weight not only with the profession, but with Parliament and the public—addressed to Mr. Ford, in acknowledgment of the receipt of his pamphlet. The letter is as follows, except as to the name of the writer, which we are not at liberty to give:—

MY DEAR SIR,—I thank you for the copy of your remarks on the 514th section of the Bankruptcy and Insolvency Bill. I entirely concur with you in thinking that the public interests require that solicitors should not be deprived of the right of audience, which they have long enjoyed in the Court of Bankruptcy. This privilege has been not only long exercised, but, in my opinion, with very beneficial results, both as regards time and expense, and the general interests of the commercial community. I think every good purpose is answered by leaving the employment of counsel (as it now is) open to the option of parties interested. In some cases, undoubtedly, the assistance of counsel is desirable if not essential; but the business in general is conducted by solicitors with perfect satisfaction to suitors and to the court. I have no doubt the observations of Mr. Lawrance and yourself on the proposed change will have due weight with the House of Commons.

W. FORD, Esq.

There is not much probability, however, of the Bankruptcy and Insolvency Bill being passed into law in the present session.

Almost the only Bill of any importance affecting law and lawyers which may yet be considered safe, is Lord St. Leonards' new Law of Property Bill, the Commons' amendments in which were agreed to by the House of Lords on Thursday evening. Elsewhere in our columns will be found an article upon this Bill.

We also give at length the Report of her Majesty's Commissioners appointed to inquire into the Mode of Taking Evidence in Chancery, and its Effects; and also the separate Report of Lord St. Leonards' on the same subject. In addition to these reports, the commissioners have published four schedules thereto. The first comprises various contributions containing the opinions of officials, and of barristers and solicitors, of experience, who were examined before the late Chancery commission on the working of the present system of taking evidence in Chancery suits, and suggestions relating thereto. The second schedule includes the evidence of witnesses practising in London, and who were not examined before the late Chancery commission. The third comprises communications from country solicitors; and the fourth consists of communications received from members of the commission. We shall take an early opportunity of presenting our readers with a general view of the opinions entertained by these various classes of persons, and of the suggestions emanating from them.

We understand that the Commissioners appointed to inquire into the question of the concentration of our Superior Courts have signed their report, which will shortly be presented to Parliament. We believe that the commissioners are unanimously in favour of the principle of concentration, and are also of opinion that effect might be given to it with great advantage to suitors, and with little cost to the country. The Commissioners recommend that the block of buildings lying between Carey-street and the Strand should be the site of the new building. Some curious and interesting evidence has been given as to the funds applicable to the purpose of the suggested plan. It is said that there is now in the Court of Chancery a large sum of money, which has arisen, not from the deposits of the suitors, but from public taxes, and which, therefore, may be devoted to public purposes.

The Attorneys' and Solicitors' Bill is for the present postponed, owing to a count out on Tuesday evening. It is to be hoped, however, that it may be more lucky when it comes on again; as it would be very much to be regretted that so useful, well considered, and fully discussed, a measure should be lost through any remissness of the Legislature.

The Dealers in Marine Stores Bill, after having passed a second reading in the House of Commons, was lost in committee on Wednesday. The object of the Bill was to place dealers in marine stores under the inspection of the police, by requiring them, after notice, to take out licenses, and to keep books in which all purchases and sales were to be entered, and by giving power to certain officers of police to visit their places of business, and examine their books. The principal objection urged against the Bill was, that it was of too stringent a nature, and gave too great powers to the police. Considering, however, the class of persons with whom the Bill proposed to deal, it is difficult to see how, if the provisions had been less stringent, they would have been of any use. Another objection urged was, that if the Bill passed into law, persons who were not in any sense dealers in marine stores, might have been brought under its operation. After carefully considering the provisions of the Bill, and the amendments which were proposed to be introduced, it is impossible to suppose that any danger of this nature would have arisen. The Bill may be susceptible of improvement, but there can be no doubt that some such measure is required to correct the great evils arising from the facilities afforded by marine store dealers for disposing of stolen goods. We are happy to see that the Home Secretary undertook to make full inquiry into the subject.

EVIDENCE OF PARTIES IN CRIMINAL CASES.

The country already owes a large debt of gratitude to Lord Brougham for his exertions in opening our courts of justice to the evidence of parties in civil suits. His lordship is now applying his efforts to obtain the same measure of justice for parties on their trial for criminal offences. In the last session of Parliament he proposed a Bill to enable defendants in criminal cases to give evidence upon oath, upon the condition of subjecting themselves to the test of cross-examination, and the penalties of perjury. The Bill, as originally framed to apply to offences of all kinds, was rejected for a reason, amongst others, which satisfied the minds of the law lords, but which is not equally satisfactory to minds unimbued with similar learning. A main argument against the Bill was, that as perjury was an offence in the rank of a misdemeanour only, a person charged with a felony would not hesitate to endeavour to escape the conviction of the greater offence, at the risk of incurring a conviction of one of minor degree. This argument manifestly does not apply to cases of misdemeanour; and, therefore, no objection was made, the other evening, to the introduction by his lordship of a Bill enabling defendants, in certain cases of misdemeanour, to become witnesses in their own behalf.

The present Bill, however guarded in its provisions, will probably suffice to establish the broad principle of admitting the evidence of the accused in criminal cases. If it works successfully, the same law may soon be anticipated for offences of all kinds. The distinction between felony and misdemeanour is merely technical. No such process of reasoning as that which has led to the modification of this Bill, would occur to the mind of any person uninitiated in legal technicalities. The public in general, and even many lawyers, are ignorant of the real points of the distinction in question. The public form a just comparative estimate of different offences according to the degrees of moral guilt; they might generally presume the law to rank them according to the same degrees in its scale of punishments; and from a feeling, thus engendered, of the different probable consequences of two convictions, a person might be induced to avoid the one at the risk of the other. The maxim that every one is presumed to know the law, is a very wholesome and sound principle, when rightly understood; but if taken as a literal fact, it is a gross fiction. It is quite just and reasonable, for instance, to impute to the criminal a full consciousness that he was doing wrong when he committed the offence, and that he thereby rendered himself liable to punishment; but it would be absurd to impute to him a knowledge of all the technical and artificial distinctions of the criminal law; yet this is the foundation of the objection at present made to the extension of the Bill to all criminal charges. It is rather surprising that the opponents of the Bill have not made the best of their position. A much more forcible argument might have been drawn from the imputed acquaintance of the accused with the requirements of criminal procedure. Two witnesses are necessary to convict of perjury; whereas one credible witness is sufficient to prove any other offence. If, therefore, a prosecution failed in consequence of material evidence given by the accused, there would seldom be much chance of discovering further evidence sufficient to convict of perjury. The chances of escape would always be immeasurably greater on the latter prosecution; and this alone, if the accused only knew it, would quite justify him as a matter of policy in preferring the latter risk. But, in truth, such considerations as these weigh with lawyers only, and do not at all enter into the minds of parties guilty of crime. We protest strongly against the measure being thus treated as merely a question of law, and discussed on mere technical grounds. If the objection is made in the plain form that the permission to the accused to give evidence for himself will put him under a great temptation to commit perjury, we agree that in some cases it will be so, and admit the objection for what it is worth. It is a fair argument, founded on experience and a knowledge of human nature, that men will constantly incur a remote danger to escape from a present one, and would accept the risk of a future conviction for perjury, were the penalty even much greater and more certain than it is, to escape a conviction that is imminent. Drowning men will catch at straws. With the professional criminal particularly, the chances of escape afforded him by the law are the speculative element in his business; and he is only following his vocation in taking every advantage of them.

But higher principles are involved in the decision of this question, than a mere feeling of consideration for the position in which a guilty man would find himself placed by his own act. A man who embarks in crime must be content to suffer some inconvenience. We may feel compassion for the embarrassment of his situation, but are not willing to relieve him by a sacrifice of principle and at a risk of injustice. It is the guilty man only who profits by withholding the truth, and who would be tempted to conceal his guilt by perjury. The interests of innocent persons, who claim to demonstrate their innocence by truth, are paramount. The guilty appeal *in misericordiam* for favour; the innocent demand only a right. There is a maxim of all others the most easy to admit, but the most difficult to practise: *audi alteram partem*. It is perhaps, also, the maxim of most extensive import, pervading as it does the whole of forensic procedure. The present question is a remarkable instance of the difficulty of enforcing its practical application. Indeed, it is hard to persuade some persons that the principle of this maxim is here at stake. But it plainly is so, since the accused is not permitted to speak in the only way in which his speaking can be recognised as effectual. The principle is not satisfied by the mere liberty of making speeches allowed to the accused or his counsel, but necessarily includes the giving of evidence upon oath.

It is idle to say that the law speaks for the accused, inasmuch as it declares him innocent until he is proved to be guilty, and throws the burden of proving him guilty upon his accuser. This presumption of innocence is his natural right, for which he owes no equivalent. His wrong is, that he may be convicted on a *primâ facie* case proved against him, which he might be able to rebut by his own evidence. The problem of the prosecution is not to demonstrate the truth, but to make the guilt of the accused to appear from the remainder of the facts, after exclusion of those to which the accused only can depose. It is equally idle to urge that by the common practice of our criminal courts, the accused is allowed to say what he likes, and that what he says carries its due weight, although not tested by cross-examination nor confirmed by oath. It is true such a practice has become general; but, strictly speaking, it is not the law. By law the accused is entitled only to comment on the evidence, and is not entitled to adduce anything in the nature of evidence with his own mouth. If the practice is advantageous, let it be at once acknowledged as law, and let it be conducted with all the regularity and safeguard of law. The accused can have no right to impose on a jury a story to which he will not give the sanction of his oath, and which cannot be tested by cross-examination. On the other hand, he has a right to speak with the same weight that his accuser has spoken against him.

It should be carefully observed that the proposition now under discussion does not extend to a compulsory examination of the accused. The days have passed, in this country at least, for the practice of torture or any similar expedient for procuring confession. The proposition is limited to giving an accused person the option of volunteering as a witness, subject to the usual legal sanctions and tests of truth. The established maxim

of our law, *nemo tenetur accusare seipsum*, would forbid any attempt at an enforced examination. We claim for the accused the liberty of being fully heard in his defence. Let him abstain from speaking, if he prefers to do so. There is no principle of law or of justice which would entitle him to protection from the natural consequences of a pregnant silence.

It is remarkable that while the law refuses to allow he accused to give his own evidence at the trial, it allows him to be examined out of court for the purpose of obtaining evidence to be used against him. On the preliminary examination before the magistrates, he is invited to make statements, which are taken down and returned with the depositions to be used at the trial. A similar practice prevails in Scotland, where "judicial declarations" are taken in the public prosecutor's office from persons accused of crimes, and may be afterwards given in evidence against them. Worst of all are the quasi-official but wholly unauthorised examinations of prisoners made by policemen, and afterwards repeated by them to the jury with all the colour which professional zeal and experience can supply. The injustice occasionally wrought by these practices is notorious. They are a direct infringement of the principle which protects an accused person from compulsory examination, and are aggravated in their effects by his not being allowed afterwards to give his own evidence in explanation.

The alleged confidence of the public in the existing state of the law, and favourable feeling towards it, must, we think, have been considerably shaken by the results of two recent trials. On the first, the defendant was convicted of an offence upon the testimony of a witness who, for the testimony then given, was convicted of perjury on the second trial. On the first trial the defendant and his wife were material witnesses, but both incompetent; on the second trial, they supplied the evidence on which the conviction for perjury was obtained, the defendant then being the incompetent witness. The result was a conviction on both sides, which is absurd. This result alone would form sufficient ground, in our opinion, to condemn the law which occasioned it.

Elsewhere in our present number will be found a report of an essay on the subject of this article by Mr. Charles H. Hopwood, which was delivered before the Juridical Society on Monday evening. It will be seen that the views of that gentleman, in the main, coincide with what have been here expressed by us. Almost the only difference of any importance is, that while he would make accused parties, and their husbands or wives, not only competent, but compellable witnesses, we insist that the present rule which protects prisoners from examination, should be maintained, except where they voluntarily submit themselves to that ordeal.

THE LANDS CLAUSES CONSOLIDATION ACT.

In our last publication we arrived at the conclusion, on the first branch of this question, that the petitioner should be entitled as against the company to the costs of *service* of all parties interested in the fund, but that no person other than the petitioner should be entitled *as of course* to costs of appearance; and that when such appearance was, (as is usually the case,) merely for the purpose of consenting to the prayer of the petition such costs should *ordinarily* be refused. This distinction between service and appearance does not, however, seem to have met with judicial acceptance, and although a large portion of the conflicting cases may be reconciled (or almost reconciled, for in some points they appear to be utterly at variance) by its adoption, it does not appear to have been distinctly recognised in any reported case, except that of *Wilson* v. *Foster* (7 W. R. 172). In that case the remainderman and trustees, who were parties to the suit, were served with the petition, and appeared to consent, and the Master of the Rolls held that they were rightly served, but that they ought not to have appeared, and that the company were not bound to pay their costs. One of the earliest reported instances of a contest of this nature between the company and persons who had appeared upon the petition, is that of *Haire* v. *Lovitt* (12 L. T. 306). In this case the purchase-money had been paid into court to the account of the railway company, the heir-at-law, and the devisee in trust of the late owner of the lands; and the prayer of the petition was for investment, and that the fund should be taken out of the name of the company altogether, and transferred to the credit of the cause. The company objected to pay the costs of more than one set of applicants, and argued that the Act expressly exonerated them from costs occasioned by adverse claims. It was replied on behalf of the heir-at-law, that these costs were not costs as between adverse claimants, but were incurred merely for the benefit of the fund, and *Ex parte Gardiner* (3 R. C. L. 117) was cited. Lord Langdale, M. R., after deciding that the company was bound to pay the costs of the investment of the money, proceeded in the following terms:—"Now, investment is not a matter of course: and, therefore, all parties interested in the fund must be made parties to a petition asking the investment thereof, and they must have due notice, for they may not all be willing to run the risk of the rise and fall of the funds, and so may object to the investment. They must, therefore, be all made parties, and be duly served with notice, so that the order to invest may be made with their consent; or if there should be any objectors, then that it may be made, if made at all, upon notice to all, and after full consideration by the Court of the case, and of the propriety of the investment." And he ordered the company to pay the costs of three different sets of persons who appeared, but offered to direct a reference to the Master, if it were said that too much was asked by the petitioner, which offer the company declined. So also in *Melling* v. *Bird* (1 W. R. 219), where the petitioner was entitled to one-tenth of the land, and petitioned that the fund should be transferred to the credit of the cause, Vice-Chancellor Kindersley refused to order the company to pay the costs of the persons entitled to the remaining nine-tenths, who had been served and appeared, merely on the ground that all the tenants in common being parties having the same interest, ought to have joined in the petition. "It appears to me," said his Honor, "that all those parties should have their costs who ought to be served, and who, consequently, ought to appear. But if there should be a great number of persons entitled to aliquot shares, and one person received for all, it was not a matter of course that the company should pay the costs of the whole number. There might certainly be a reason why they should not have joined, and that would have been a reason why the company should have paid those costs; but there does not appear to have been any reason here why they should not have been joined. No doubt the trustees ought not to have been joined in the petition. The company, therefore, ought not to be ordered to pay any other costs than those of the trustees and the petitioner. The costs of the other parties who have been served must be costs in the cause." However, in the precisely similar case of *Patten* v. *Gatty*, reported in a note to this case, it appears that Vice-Chancellor Turner ordered the company to pay the costs of all the parties served with the petition; and in *Dinning* v. *Henderson* (2 De G. & Sm. 485), Vice-Chancellor Knight Bruce ordered the company to pay the costs of all the parties to the cause. So again in the late case of *In re Nash* (25 L. J. Ch. 20), Vice-Chancellor Stuart held, that the company must pay the costs of incumbrancers on the life estate, and of the receiver appointed on their behalf, who had been served with the petition and had appeared. And

so in the case of *In re Hungerford's Trusts* (1 K & J. 413), although the petition merely asked for payment of the dividends to the tenant for life, Vice-Chancellor Wood held that the company, who had on a former occasion taken objection to the absence of certain incumbrancers on the life estate, were liable to pay their costs of appearance, although they made no adverse claim. The Vice-Chancellor said, "The Court may have erred in requiring these incumbrancers to be served at all, as they have not ousted the tenant for life from his possession, and have not given any notice to the company, or made any claim requiring that they should be brought here. The company, on the former occasion, suggested the facts upon which I ordered the incumbrancers to be served. Under these circumstances the incumbrancers have been duly served; and it not being clear whether the case of *Ex parte Smith* (6 Ry., & C. Ca 150.) was not decided upon the ground that the mortgagee was considered to be improperly served, I think that the right conclusion is that the company should pay the costs of the incumbrancer who appears." However, subsequently (3 K. & J. 455), the Vice-Chancellor made an order in the same case for the payment of dividends to the petitioner, who had been in possession at the time of the sale, notwithstanding his not having served his incumbrancers, although the company again urged the same objection which had succeeded before.

A further application of the same principle occurred in the case of *Ex parte the Vicar of Creech St. Michael* (21 L. J. Ch. 677), where, by the special Act, the purchase-monies were to be reinvested in the purchase of other lands on petition to the Court of Exchequer by the vicar and patron for the time being of the vicarage, with the consent of the ordinary for the time being of the diocese; and Vice-Chancellor Parker held that the ordinary was entitled against the company to the costs of attending not merely the investigation in the Master's office, but all the proceedings relating to the investment; and so in *Carpmael* v. *Proffitt* (23 L. J. Ch. 165), Vice-Chancellor Wood ordered the company to pay the costs of a second petition for reinvestment, notwithstanding that this had been rendered necessary by the fact that the title to the lands sought to be purchased was subject of litigation; and the Vice-Chancellor remarked that "the parties to the cause relating to the lands to be purchased were entitled to be served."

So far we have decisions in favour of charging the company not merely with service, but also with the *appearance* of every person who could possibly be held to have any valid claim upon the fund; but there are not wanting contemporary decisions to the very opposite effect. In *Ex parte Smith*, (6 Ry. & C. Ca. 150,) for instance, where there was the usual petition for investment in the funds and payment of the dividends to the tenant for life, the Vice-Chancellor of England refused to allow the costs of appearance of the incumbrancers upon the life estate. And on the same principle in *Ex parte Cofield*, (11 Jur. 1071,) where the land was together with, or land subject to, an annuity, and the company had required the annuitant to join in the conveyance, and no conveyance had been, V. C. Knight Bruce ordered the dividends to be paid to the petitioner (owner of the incumbrance) without the consent of the annuitant, and ordered the company to pay the costs of the petition. And similarly, *In re Webster's Settled Estates*, 2 Sm. & G. App. vi., Vice-Chancellor Stuart refused to make the company pay the costs of Lady Webster or the mortgagees of her jointure who had appeared upon a petition praying for investment and payment of the dividends to Sir Geoffrey Webster for life. The case upon which the decision *In re Legge's Estate* appears to have been principally founded was that of *Ex parte Staples*, 1 D. M. U. G. 294. This was a case in which the title had been duly referred to and approved by the Master, and which was brought on before the Court of Appeal at the suggestion of Vice-Chancellor Kindersley upon the question whether it was necessary for the petitioner to serve the trustees or the parties entitled in remainder; and their lordships, differing from the view taken by his Honor, and also, as it appeared, by two other of the judges, held that such service was unnecessary. Sir J. L. Knight Bruce, L.J., said, "Taking analogy and practice together, I think it inexpedient to change the usage hitherto pursued." Lord Cranworth, L.J., said, "If the question had come before me in 1832, when the first statutes were passed, I rather think that my decision would have been in accordance with the practice hitherto adopted; but when it appears as a matter of fact that this practice has gone on for twenty years, and no inconvenience has been shown to have resulted from it, I am certainly not prepared to say that the practice should be changed." The authority of this case, however, appears to us to be very much weakened by the circumstances which appear upon the face of the report. No authorities appear to have been cited to their lordships by any of the counsel engaged in the case; and it certainly seems difficult to depend as conclusive on a judgment going, as this does, entirely on the assumption of an admitted uniformity of practice in the face of such frequent instances to the contrary as we have referred to. It may be that the suggestion, that Parliament considered the tenant for life's presence a sufficient security for all parties concerned is well founded; it may be that incumbrancers who do not choose to place themselves in that position which Lord Justice Knight Bruce has declared to be one of the most unfortunate on earth—that of a mortgagee in possession—are not to be considered entitled to ascertain what is about to be done with their security; but it can hardly be laid down that what has been the uniform practice for a series of years, every judge who presided in any of the courts of first instance during that period has in one or more recorded instances departed from; and, though an uncontested, and therefore unreported case may not be of much weight in a question of this kind, we may add that we are enabled, by the kindness of a learned friend, to state that out of three cases of this nature in which he was engaged in the same branch of the court on the same day, he appeared for remaindermen in two, and in each case the Master of the Rolls, without any expression of dissent on the part of the counsel for the company, ordered them to pay his costs.

The difficulty which throughout appears to have pressed most upon the Court in this matter, seems to have arisen from a too general admission of the principle that whoever ought to be served has a right to appear. Undoubtedly in its inception this principle was founded on a sound basis; namely, that it is not right to throw upon the person served with a petition or notice of motion the responsibility of deciding for himself whether his appearance will be necessary or not (*Bamford* v. *Watts*, 2 Beav. 202, and see *Chalie* v. *Gwynne*, 9 Beav. 319); but this, though generally applicable to the case of petitions in suits, where a person improperly served can rightly be thrown on the petitioner, and where it is not in general possible that anyone could have an interest entitling him to notice of the proceedings without a corresponding right to be present at them, will not apply to a case where an Act of Parliament has expressly made one person of necessity the *actor*, in a matter affecting the interests of many, while another is equally expressly charged with payment of the costs. Accordingly, the Court, seeing the difficulty on the one hand of allowing the petitioner to saddle the company with a mass of costs of different parties, who, *as against them*, were in the same interest, and on the other of charging the petitioner with the costs of these persons who, *as against him*, had important interests of their own to protect, and pressed by the rule above mentioned, has in many cases, somewhat precipitately as we think, adopted the practice of giving the costs of all these parties out of the fund in court. If this practice had been confined to the case of cause petitions, where the

parties to the cause, who are, by the rules of the Court, entitled and required to appear and consent to any proposed dealings with their money in the suit, and who are therefore, by the same rules, entitled to come upon that money for the payment of their costs, no grievance could be fairly said to exist; but when it is extended to petitions under the Act, and the income of the tenant for life and the *corpus* of the property are thus indirectly mulcted for the benefit of persons whose expenses, if *necessary*, ought surely to be paid by the company which created the necessity; and if *unnecessary*, ought for that very reason to be borne by themselves; it does appear to us that the benefits intended by Parliament for persons whose estates are thus compulsorily interfered with are very seriously diminished; and that in the case of a small fund, where there are two or three successive tenants for life in remainder, as may very well happen, nothing whatever may be left for investment. And that this danger is by no means imaginary, the almost daily result of suits for the administration of very small estates abundantly shows, where it is by no means an unusual event that the entire estate is insufficient for the payment of costs.

It can hardly, indeed, be said that this practice has been yet established; for although in *Wilson* v. *Foster*, the Master of the Rolls ordered such costs to be taxed and paid out of the fund, and in *Melling* v. *Bird* V.C. Kindersley ordered similar costs to be costs in the cause; that course seems to have arisen from the fact that the persons whose costs were thus dealt with were parties to the suit, and that the fund in question in each case was properly subject to administration in the suit, so that it would be subject to the same rights as regards them, as any other portion of the estate under administration. So in *Hare* v. *Smith* (5 Ry. & C. Ca. 592), where, by the Master's report, it was found that the petitioner was a creditor of the estate for a sum exceeding the amount paid in by the company, and he petitioned in the cause and in the matter that this amount might be paid out to him in part satisfaction of his debt, V.C. Knight Bruce held that the company were only liable to pay such costs as they would have had to pay if the petition had been simply presented under the Act, and that the rest of the costs must be costs in the cause. It is true that the late case of *Ex parte Styan* (1 Joh. 387), V.C. Wood ordered the costs other than those of the petitioner to be paid out of the fund; but then that was a case in which the company had paid the money into court, because the title of the trustees (the vendors) depended upon the construction of a will. The petitioner was an infant who was entitled to the dividends on any construction, but the several persons interested in supporting adverse constructions appeared and argued the question of construction on the petition; and his Honor refused to decide this question, and ordered payment of the dividends as prayed, and directed that the company should pay only one set of costs, on the ground that the costs of the persons who claimed against each other under the various constructions of this will were costs of litigation, and, as such, came under the exception in the Act; so that the only effect of this order was to put the parties in the same position as if they had litigated the question, and the Court only followed the well-known rule that where the difficulty has originated with the testator, his estate should bear the costs. There does not, therefore, appear to be any known case (except *Re Legge's Estate*, where no one objected, and all persons interested in objecting were present), where it has been held that the fund in court is liable, in the simple case of a petition under the Act, to pay the costs of persons who are not entitled to costs against the company; and we earnestly hope that the direction which the courts have taken in this matter may never be followed out to this extent. Such an order would appear to us clearly to contravene the express intention of the Legislature, namely, that the persons whose land has been forcibly taken away should have the same interest in the purchase-money that they had in the land.

The same principle,—namely, that every person served has a right to appear at *some one's* expense other than his own,—seems to have directed the decision in *Re Dylar's Estate* (19 Jur. 975), where it was held by V.C. Wood that the vendor of the lands proposed to be purchased instead of those taken by the company was not entitled to his costs of appearance as against the company, but was entitled to such costs against the petitioner who had served him with the petition—a decision which seems to us, though not fraught with the same dangerous consequences as the practice we have been discussing, yet open to even greater animadversion. It may be that the petitioner was too tender of the interests of his vendor; it is clear that his presence was quite unnecessary; but why the petitioner should pay for it, unless it could be shown that he made it obligatory on the party to appear, seems to us a mystery only explainable by the, as we submit, erroneous extension of the rule of practice above mentioned.

We are compelled us to defer for another week our intended remarks upon the remaining two branches of this question.

THE PENDING LAW OF PROPERTY BILL.

[COMMUNICATED.]

The Bill intituled "An Act to further amend the Law of Property," which was brought into the House of Lords by the Lord Chancellor, on behalf of Lord St. Leonards, early in the present session, having been passed by their lordships and sent down to the Commons, has, after some amendments and additions, been returned to the Upper House. On Thursday evening these amendments and additions were considered; when Lord St. Leonards, although he did not altogether approve of them, thought that it was desirable that they should be agreed to, in order that the Bill might pass; and they were agreed to accordingly. The whole measure is worthy of careful attention; and on one or two principal points in it, I beg leave to offer to you a few observations.

The first five clauses relate to judgments. The patchwork legislation which has dealt with this subject has not always fitted its pieces accurately to each other; and it is a rent in the previous law, made and not again filled up by an Act of the present reign, which the third and fourth clauses propose very usefully to mend. Whether the first and second will be equally beneficial is, I think, more than doubtful, and it is to them that I wish first to direct attention.

They propose, as appears from the preamble of clause 1, "to place freehold, customary and copyhold estates on the same footing with leasehold estates in respect of judgments, statutes, and recognizances, as against purchasers and mortgagees, and also to enable purchasers and mortgagees of estates, whether freehold, copyhold, or customaryhold, or leasehold, to ascertain when execution has issued on any judgment statute, or recognizance, and to protect them against delay in the execution of the writ."

Now the difference at present existing between the effect of judgments on freehold and on leasehold property, is, (1) that freeholds are bound from the signing of the judgment, but leaseholds only from the issue of the writ of execution; and further (2) that it has been doubted whether a trust term is extendable as well as a trust estate of freehold. It is, however, only the first of these points of difference that the Bill deals with. The other will continue to retain such doubtful existence as it now has.

As to the first point, the Bill proposes to enact that no judgment, &c., shall affect land as to a *bonâ fide* purchaser for valuable consideration, or a mortgagee, whether with or without notice, unless a writ or other process of execution shall have been issued and registered before the execution of the conveyance or mortgage, and payment of the purchase or mortgage money. Further, the execution must be put in force within three months after registry. The judgment itself will still need registry, for the same purposes and in the same manner as now.

The effect of this is certainly to assimilate the operation of judgments on freehold and on leasehold property; and also to enable purchasers to know when execution has been issued

But the clause will also produce some other effects, which may be considered before estimating the value of these.

Judgment debtors will be put to additional expense by the additional registry. Judgment creditors will be put to additional trouble from the same cause, and will incur a proportionally increased risk of not receiving all their debts and costs. Purchasers and mortgagees will have to search, not only the old judgment register for five years to guard against *lis pendens*, to which the Bill does not apply; but also the new register writs of execution.

Besides these consequences, there will be the following still more important one. The Bill proposes to reverse a policy followed for nearly six centuries, and to conform the general law to an anomalous exception. The statute West. 2 (13 Edw. 1, c. 18), made a judgment a permanent security on the land of the debtor. Subsequent legislation has always hitherto proceeded on the principle there laid down, and has endeavoured at once to make the security more perfect, and to lessen the difficulty put by it in the way of dealings with the land. Thus for the first purpose the Statute of Frauds made trust estates extendable, and an Act of the present reign enabled judgment creditors to seize the whole instead of half of the debtor's land; while for the second, the various provisions relative to the docketing and registration of judgments have been successively adopted. While, however, this has been the general policy of the law, the determination of the judges respecting the effect of judgments on leaseholds has been somewhat in opposition to it. It has been held,—on not very satisfactory grounds,—that leasehold interests are not bound, as freeholds are, from the signing of the judgment.

The exceptional position thus given to leaseholds is now to be adopted for all real estate, and the long established form of permanent security by judgment is to be abolished. Not only is this to be the case with regard to future transactions, but securities of that nature already taken are to be invalidated. In some of these last cases, it will be found that the judgment is the only effectual security, and that it cannot be replaced by another, yet the Bill proposes to destroy it. It is curious that amid all the outcry for registration of the transactions affecting land, this well understood and simple registered proceeding should be done away with.

Thus this "amendment" of the law of property will impose on all persons concerned, whether judgment debtors and creditors, or purchasers and mortgagees, additional cost, trouble, and risk; it will deprive us of an ancient and efficient method of securing money; and it will injuriously disturb existing arrangements. To balance these evils indeed, we shall gain a simplification of the law in one respect by converting an exception into the universal rule—an object which might, I submit, be better attained by the opposite course; and we shall have the means of knowing whether execution has issued—a piece of information with which it is probable purchasers and mortgagees are quite willing to dispense, so long as they can ascertain whether there are any judgments affecting the land.

Another important clause in the Bill is the 6th, which provides that "no purchaser for valuable consideration, or mortgagee shall be bound by any implied or constructive notice of any charge," &c., unless in the opinion of the Court the conduct of such person amounted to fraud.

A moment's consideration will, I think, make plain the impropriety of such an enactment. The evil to be remedied is not the holding a man responsible for that of which he has constructive notice. The difference between express and constructive notice lies, in many cases, only in the proof of it; and if the notice be sufficiently proved to have reached any person, he is justly held liable, no matter how the proof may have been made. The evil which does, or is supposed to exist, is, that the courts have inferred notice on insufficient grounds. The remedy proposed cuts the Gordian knot with startling boldness. It does so by saying, in effect, that the courts shall not infer notice at all. The enactment will be analogous to one prohibiting conviction on circumstantial evidence. Its results may be judged by bearing in mind that notice to agents is described in the books as constructive. Notice to a solicitor will be of no avail to a person who wishes to retain his priority. It must be given to the principal himself. The enactment is, indeed, to be modified by the exception of cases of fraud. But if the courts may not be trusted to infer correctly the fact of notice, how can it be fitting that the far more difficult question of the existence of a fraudulent motive—a question the determination of which judges, both of law and of equity, have evaded as much as they could by visiting with the same penalties gross negligence and fraud—should not only be left, but should be forced on them for decision.

Those cases of constructive notice which proceed, not on the ground of knowledge inferred to have actually come to the person to be charged, but on the ground that he ought to have known, may be thought not to fall within the above description. The proposed remedy, however, as applied to them falls under the last-mentioned objection, and under the further one of denying the equal culpability, for civil purposes, of gross negligence and fraud—which Roman and English judges have concurred in affirming, not arbitrarily, but as truly just.

Several other clauses are open to much criticism, especially the seventh, which amends Lord St. Leonards' Act of last year. This would be very useful, were not the word "waiver" qualified by "actual," which is so vague as to render it doubtful whether the clause applies to implied or express waiver only, or to both.

The investment clause of last year is retained, and made retrospective.

J. SAVILL VAIZEY.

CHANCERY EVIDENCE COMMISSIONERS' REPORT.

We, the undersigned of your Majesty's commissioners appointed to inquire into the mode of taking evidence in Chancery, and its effects, humbly certify to your Majesty that by the Act passed in the 15th and 16th years of your Majesty's reign, for amending the practice and course of proceeding in the High Court of Chancery, various extensive changes were made in the mode of taking evidence in that court.

After the system then introduced had been for a short time in operation, complaints were made that it occasioned great expense and delay; and in the year 1854, Lord Cranworth, then Lord Chancellor, called the attention of the late Commissioners for inquiring into the Practice and Procedure of the High Court of Chancery to the subject; and they, in the month of August in that year, submitted to him a memorandum, in which, after stating that the general impression in the profession appeared to be that the unquestionable advantages derived from an oral examination of witnesses before the examiner were obtained at too great a cost of time and money, and that the commissioners were disposed to concur in that view of the case, they recommended various changes in the existing system, adding, however, that the proposals then made must be considered as tentative merely, it being their opinion that by experiment alone could the most eligible system be determined.

Pursuant to that memorandum, a general order of the court was made on the 13th of January, 1855, the object of which was to carry into effect the recommendations of the commissioners.

The commissioners by their third report, dated the 14th of April, 1856, after referring to the memorandum of August, 1854, and the general order of the 13th of January, 1855, which, they stated, had, as they believed to some considerable extent, removed the evils complained of, proceed to say:—"We have, however, to add on this subject that it is one of great difficulty, and that in our opinion further experience is required before it can be determined, with any certainty, what is the best system of taking evidence in a court of chancery."

The system introduced by the Act of Parliament, to which we have referred, modified by the subsequent general order, has been ever since in operation.

Under this system every party in a cause is now at liberty to verify his case, wholly or partially by affidavit, or wholly or partially by oral examination of witnesses, taken before one of the examiners of the court, or before an examiner specially appointed for the purpose; and where any evidence is adduced on affidavit, the opposite party is entitled to compel the attendance of the deponent who has made the affidavit, in order to his being cross-examined orally before the examiner, the expense of that attendance being paid in the first instance by the party requiring it, and being part of his costs in the cause.

In addition to the evidence thus adduced, the Court, if it sees fit, may, at the hearing of the cause, require the production before itself of any party or witness in order to his being examined *viva voce* as to any points on which fuller information may be desired.

In order to satisfy ourselves as to how far this system is open to objection, and if so, then how it may best be amended, we, in the first instance, caused letters to be addressed by our secretary to the various gentlemen who had given evidence upon this part of the subject before the late commissioners, requesting them to inform us what was the result of their experience of the alterations made in pursuance of the suggestions of the commissioners.

The majority of these gentlemen gave us their written opinion on the subject, which we have annexed in the Schedule A. to this our report.

We also caused to be made known to the legal profession in London our desire to receive written opinions on the subject from gentlemen who had not been examined before the former commission; and we have appended in Schedule B. annexed to this report the opinions which we received in consequence of this intimation.

We considered it, moreover, desirable to ascertain the opinions of solicitors practising in the country; and with that view our secretary addressed letters to members of the profession in different parts of England, requesting them to collect and forward to him the opinions of solicitors in their respective neighbourhoods; and we append in Schedule C. the answers we received to those letters.

Several of the Commissioners, from time to time, made written communications to us, expressing their views on the question we had to consider, all of which we have set out in Schedule D. annexed to our report.

The inquiries which we have thus made have satisfied us that the present system is open to grave objections.

The course of proceeding before the examiner has led to unnecessary delay and expense; and, though these evils might probably be materially diminished by new regulations, enabling the examiner to compel unwilling parties to proceed with greater expedition, yet we do not think that any such changes would go to the root of the evil. In a large part of the cases brought for decision before the Court of Chancery there are no facts, or very few facts, in dispute; though it must still be necessary as a security against error that the Court should have all facts on which its judgment is to rest established by proof before any decision is come to in the case. For this purpose evidence taken on affidavit seems to be the most desirable, as being in general more expeditious, and less costly, than evidence obtained in any other form. As a security for its being trustworthy, proper facilities must be afforded to those affected by it, enabling them to cross-examine the deponents by whom the affidavits are made.

With respect to material facts which are disputed, we have come to the conclusion that the only reasonable course is that the evidence bearing on them should be adduced *ore tenus* before the Court which is to decide on the whole case. We are persuaded that any attempt to remodel or improve the course of proceeding before the examiners would prove illusory. The evil arising from having the evidence taken before one functionary, and its weight and effect decided on by another, is an evil of principle and not of detail.

We have, therefore, come to the conclusion that the system of taking evidence before the examiners should, except in some special cases, wholly cease, and that all evidence should be adduced either on affidavit or *viva voce* at the hearing.

In order to explain more fully our opinions on the subject of our inquiry, and the mode in which we consider that the existing evils ought to be dealt with, we have agreed on the following resolutions, which we venture respectfully to submit to your Majesty:—

1. That the present mode of taking evidence in the Court of Chancery is unsatisfactory, and in some respects requires alteration.

2. That it is desirable that facilities should be afforded for the trial of material facts contested between the parties upon *viva voce* evidence, to be given before the judge who is to decide upon them, or before a jury.

3. That after issue joined in a cause, or in such stage of any proceeding pending in the court as shall by general order be fixed in that behalf, any party, within such time as by general order shall be fixed in that behalf, shall be at liberty, by notice in writing, signed by him or his solicitor, and served on the opposite party or his solicitor, to require that the evidence as to facts or issues specified in such notice shall be taken *viva voce*.

4. That, except as to matters included in such notice, each party may support his case by evidence in chief, adduced on affidavit, or otherwise, according to the present practice, subject to the provisions hereinafter contained.

5. That when a party has filed an affidavit in support of his case, any opposing party may, within such time and in such manner as by general order shall be fixed in that behalf, give notice that he requires the production, for cross-examination at the hearing, of the deponent who has made the affidavit; and unless such deponent be then produced, the affidavit shall not be read, unless by special leave of the Court.

6. That any party in a cause may compel the attendance at the hearing of any person whom he may desire to produce as a witness, in the same way as such attendance may now be compelled at trials at *nisi prius*.

7. That at the hearing of the cause the *viva voce* examination and cross-examination of witnesses shall be had in the presence of the judge as to the matters included in any such notice as aforesaid, and affidavits shall only be received of such facts and documents as the judge shall consider not to be included in the terms of the notice.

8. That, except as herein-after mentioned, all examinations taken by the examiners of the Court, or by any special examiner, shall be taken *ex parte*, and no person shall have a right to be present at the taking of any examination except the party producing the witness, his counsel, solicitor, and agents; and that every examination so taken shall be deemed to be an affidavit; and it shall be the duty of the party who has obtained such examination to file the same, which shall thereafter be dealt with in all respects as an affidavit.

9. That the Court at the hearing or at any rehearing may require any witness who has made an affidavit or has been examined to attend to be orally examined; and may also direct the trial before the Court, either with or without a jury, or at *nisi prius*, of any issue of fact not proved to the satisfaction of the Court by the existing evidence.

10. That in case of a rehearing or appeal, the judge's notes shall *primâ facie* be taken to be a sufficient note of the *viva voce* evidence, but the Court before which such rehearing or appeal is had may supply any defect in the judge's notes by the notes of counsel or otherwise as it may deem just.

11. That on any rehearing the Court may, if it thinks fit, give leave to any party to adduce further evidence *viva voce*.

12. That where both parties shall agree in desiring that a trial should be had before the Court, with the assistance of a jury, or before a judge at *nisi prius*, and shall agree on the issues to be tried, they shall be at liberty to apply to the Court to order such trial to be so had accordingly, and the Court shall make such order thereon as it shall see fit.

13. That, unless by consent of all parties interested, no examination shall be had before any examiner or special examiner otherwise than as mentioned in the 8th resolution, save only that, by leave of the Court, any person may, in respect of age, infirmity, or other sufficient cause, to be approved by the Court, be examined or cross-examined according to the present practice

14. That in the case of examinations or cross-examinations under the last preceding resolution, it shall be the duty of the examiner of the Court to attend, upon an order of the Court being obtained for that purpose, at any place in England or Wales, for the examination and cross-examination of such witness, and the reasonable expenses of the examiner in that behalf incurred shall be paid to him by the party requiring the examination, and shall be costs in the cause, unless otherwise directed.

15. That wherever notice requiring *viva voce* examination shall have been given by any party under the third resolution, the Court shall determine at the hearing, whether in the circumstances of the case, it was reasonable and proper to give such notice, and shall dispose of the costs occasioned by such notice as it may think just, and if the Court shall be of opinion that such notice was given unreasonably, or for the purposes of delay, oppression, or vexation, it may order costs as between solicitor and client to be paid by the offending party in respect of all expenses occasioned by such notice.

16. That these resolutions shall apply not only to the hearing of causes, but also to the motions for a decree; and it shall be lawful for the Lord Chancellor by general order from time to time to direct that the same may be applied to any other proceedings, subject to such modifications as may be necessary.

17. That in all causes and matters in which any infant, married woman, *non compos*, or person under any other disability is a party, the consent or admission of the next friend, guardian, or other person acting for the party under disability shall, if given with the sanction of the Court, or a judge in chambers, have the same force and effect as if given by a person not under disability; provided always, that no such consent of any committee of a lunatic shall be valid as between himself and the lunatic without the sanction of the Lord Chancellor or the Lords Justices sitting in lunacy.

18. That none of the foregoing resolutions shall apply to evidence taken in suits to perpetuate testimony.

We regret to add, that one of our members does not concur

in our general resolutions, and has himself made a separate report.

All which we humbly submit to your Majesty.

CAMPBELL, C.	J. L. KNIGHT BRUCE, L.J.
LYNDHURST.	G. J. TURNER, L. J.
BROUGHAM.	W. P. WOOD, V.C.
CRANWORTH.	RICHARD BETHELL.
WENSLEYDALE.	H. M. CAIRNS.
CHELMSFORD.	GEORGE MARKHAM GIFFARD.
KINGSDOWN.	W. STRICKLAND COOKSON.
JOHN ROMILLY, M.R.	GEO. TALLENTIRE GIBSON.

SEPARATE REPORT BY LORD ST. LEONARDS.

I, one of your Majesty's commissioners appointed to inquire into the mode of taking evidence in Chancery and its effects, humbly certify to your Majesty that in the Act passed in the 15th and 16th years of your Majesty's reign, referred to in the report of your Majesty's other commissioners, special directions are contained for the examination of witnesses orally before one of the examiners of the court, where the evidence is not taken by affidavit, in the presence of the parties, their counsel, solicitors, or agents; and the witnesses so examined are to be subject to cross-examination and re-examination, and a witness who has sworn an affidavit is made subject to oral cross-examination before the examiner. The court has power to require the production and oral examination before itself of any witness or party in the cause; but at present it rests wholly in the discretion of the judge whether there shall be any examination in open court; neither party can insist upon it. Your Majesty's late commissioners for inquiring into the practice and procedure of the High Court of Chancery, in their memorandum referred to by the report now before your Majesty, stated that the general impression was, that the unquestionable advantages derived from an oral examination of the witnesses before the examiner were obtained under the present system at too great a cost of time and money, and in this view they were disposed to concur. For the reasons which they state, they would object to the evidence being taken in open court, and they proposed certain alterations with a view to save time and money, but still altogether retaining the examination before the examiners, and their recommendations were carried into effect by general orders, which authorised either party to proceed by affidavit. This rule diminished in a very material degree examinations in chief, and increased in a still greater degree cross-examinations, and the time of the examiners is now principally occupied in taking cross examinations upon affidavits.

I agree with your Majesty's other commissioners that the course of proceedings before the examiners has led to unnecessary delay and expense, but I regret to say that I cannot concur in submitting to your Majesty the resolutions upon which they have agreed. By their 8th resolution all examinations taken by the examiners are to be taken *ex parte*, and no person is to have a right to be present at the examination except the party producing the witness, his counsel, solicitor, and agents, and every examination so taken is to be deemed to be an affidavit, and is to be dealt with as such. The 13th resolution provides that unless by consent of all parties no examination shall be had before any examiner except as mentioned in the 8th resolution, save only that by leave of the Court any person may in respect of age, infirmity, or other sufficient cause to be approved by the Court, be examined or cross-examined according to the present practice. These resolutions would, if carried into effect, operate to a large extent as a repeal of the statute of 1852. Of course no one would avail himself of the power reserved to him by the 8th resolution of being present at the examination *ex parte* by the examiner with his witness, counsel, solicitors, and agents, for the examination would operate only as an affidavit which could be made without any resort to the examiner.

The 3rd resolution of the report is, that any party shall be at liberty to give notice to his opponent that he requires the evidence as to facts or issues, specified in such notice, to be taken *viva voce*, and the abuse of this privilege is by the 15th resolution proposed to be prevented by the power to inflict costs. The 5th resolution gives power to an opposing party to give notice that he requires the production for cross-examination at the hearing of the deponent who has made an affidavit, and the 7th resolution provides that at the hearing of the cause the *viva voce* examination and cross-examination of witnesses shall be had in the presence of the judge as to the matters included in any such notice.

If these resolutions should be adopted by the Legislature, they would apparently render the offices of the examiners all but a sinecure, and practically impose their important duties on the court itself. The threat of costs will not prevent parties from insisting upon the examinations being taken orally before the court, and where one party commences by an affidavit the other would have a right to cross-examine before the court, so that a hearing with *viva voce* evidence in open court could always be obtained without having recourse to the right provided by the 3d resolution, which might expose the party to costs under the 15th resolution. The numerous cross-examinations which now take place before the examiner would not only be transferred to the judge in open court, but would be increased, as examinations before the examiner would only operate as affidavits.

The constant demand on a judge in equity to decide upon points of law, and to consider the bearings of the evidence, requires quiet and calm in the Court itself. The course of the law should not be interrupted by addresses to a jury, the introduction of common law counsel, and all the wrangling of trials at nisi prius. Courts of law are enabled to avoid the interruptions which would arise in courts of equity were they compelled to summon juries or constantly to hear *viva voce* evidence. The equity judges have not only to transact in court all the important legal business which comes before them, but to follow it into chambers, and see that the decree of the court is properly carried out, a duty which until 1852 was not imposed upon them. If, as proposed, there should now be added the constant hearing in court of *viva voce* evidence, and sometimes with juries, and necessarily the taking notes of the evidence for their own use, and to be used on appeals and rehearings, it may be found that more duties are imposed on those judges than any man can fairly be required to perform. Under the existing law, evidence may be by affidavit or by written depositions, or *viva voce* before the court, with or without a jury, with full powers of cross-examination. But these powers are properly, as it seems to me, under the control and direction of the court.

The principal objections to the present system before the examiners are delay and expense. But it has not yet had a fair trial, and it has been abused by the suitor. There is very great delay, and yet the examiners have half their time unemployed. This arises, first, from a faulty mode of procedure. Every case has a day appointed for it, and consequently it is only at the end of a long list that any new suitor can obtain an appointment. Suitors themselves are answerable for the second cause of delay; they are constantly in the habit of neglecting to keep their appointments, and frequently abandon their privilege.

In 1858, out of 255 appointments taken out before the examiners, 118 were unattended; 137 only were therefore attended out of 255; and every one of these unattended appointments stopped the whole course of business.

It appears to me, therefore, that the law of 1852 has not yet been fairly tried, and that we should consider not what substitute we can find for it, but how we can work it to advantage, and as far as may be expedient improve it. In this view I would beg to suggest as follows:—

1. That the examiners should be put in possession shortly of the points to be proved. The desire to get rid of the old method of pleading has led to uncertainty of what are the issues to be tried. It would hardly be an improvement to adopt the Scotch plan and thus introduce a still more burdensome scheme of paper warfare.

2. That in case of any abuse, *e. g.* the cases mentioned by the examiners in their evidence, of 17 days evidence and of cross-examination of one witness 4½ days—the examiner should communicate with the judge, who should, if he deem it expedient, order the examination before himself.

3. That every case should be heard successively and continuously. No appointment to be made except for short matters, or for long cases by arrangement with both parties.

4. At ten o'clock every morning short cases to be taken, according to a previous list.

At eleven o'clock the cases in their order to be taken according to a previous list of the day, and to be disposed of as in Court. Absence of counsel or of witnesses to be dealt with as if the case were before the Court.

If the Court were to hear the evidence *viva voce*, of course the same strictness would prevail as upon a trial at law. There is no reason why the same strictness should not prevail before the examiner.

5. The lists to be made out so as to prevent unnecessary expense and delay. How to accomplish this would soon be ascertained from communications with the solicitors.

If the order of 1857 were rescinded the cross-examination on affidavits would be reduced in number.

No party or parties in the same interest should attend by more than one counsel before the examiner.

A strict control should be kept over the costs of cross-examination on affidavits.

It would perhaps save expense if examinations in chief were to be made upon interrogatories as under the old practice.

Both parties should be at liberty to apply for an issue, subject to proper regulations.

I may refer to the opinions of your Majesty's commissioners for inquiring into the practice and procedure of the High Court of Chancery in support of the views which I have taken of this subject.

All which I humbly submit to your Majesty.

ST. LEONARDS.

The Courts, Appointments, Promotions, Vacancies, &c.

THE SESSIONS-HOUSE, CLERKENWELL.

The alterations at the Sessions-house, Clerkenwell-green, which were considerably impeded through the builders' strike, are now rapidly approaching completion, and it is fully expected that the magistrates will resume their sittings there on the next county day, the 19th inst. The old building has been converted into a very handsome edifice, the internal arrangements are such as to afford every convenience for the public, and the offices have been so constructed as to give the utmost facility for the transaction of the county business. The old dining-room has been converted into a new court, and an entirely new dining-room has been built over it. A clause in the Act of Parliament passed last session gives the magistrates the power of holding all the sessions at Clerkenwell, and when the business is resumed there arrangements will be made forthwith to put that power in operation. It is stated that the Westminster Sessions-house, when the sessions are discontinued there, will be required either for the Divorce Court, or by the trustees of the National Portrait Gallery.

Mr. Bingham, the senior magistrate at the Marlborough-street Court, has, we regret to say, sent in his resignation to the Home Office. The learned gentleman was seized with a sudden and severe attack of illness a few days since, which has compelled him to retire into private life. We are sure that the profession and the public will regret that the state of health of the worthy magistrate has compelled him to take this course; for his great ability and uprightness of character have won the respect and esteem of all with whom his public duties brought him in contact.

Mr. Charles Edward Coleridge, of the South Wales circuit, has been appointed Secretary to the Berwick-upon-Tweed Bribery Commission.

Mr. Nichols has been appointed a Commissioner of the Insolvent Debtors' Court, in the place of the late Mr. Serjeant Murphy.

The Queen has been pleased to appoint William Henry Adams, Esq., to be Chief Justice for the colony of Hong Kong.

The Lord Chancellor has appointed Mr. John Nesbitt Malleson, of No. 11, Austin-friars, to be a London Commissioner to administer oaths in the High Court of Chancery.

Mr. Thomas Norton, of the Home Circuit, has been appointed Master of the Crown Office.

The Queen has been pleased to appoint James Vaughan, Esq., Thomas Irwin Barstow, Esq., and Franklin Lushington, Esq., to be commissioners for the purpose of making inquiry intot he existence of bribery at the last election for the town of Berwick-upon-Tweed.

Parliament and Legislation.

HOUSE OF LORDS.

Monday, July 2.

CRIMINAL LUNATICS ASYLUM.

This Bill was read a second time.

Tuesday, July 3.

ECCLESIASTICAL COURTS JURISDICTION.

PETITIONS OF RIGHT.

BANKRUPT LAW (SCOTLAND) AMENDMENT.

The royal assent was given by commission to these Bills.

TITHE COMMUTATION.

This Bill was read a second time, on the understanding that the discussion would be taken on the motion for going into committee.

ENDOWED CHARITIES.

This Bill passed through committee.

Thursday, July 5.

LAW OF PROPERTY.

On the question that the amendments introduced into the Bill by the House of Commons be agreed to,

Lord ST. LEONARDS expressed his disapproval of some of the amendments, but thought, nevertheless, that the measure would be useful, and, therefore, was willing to accept it as it stood.

After a few words from the LORD CHANCELLOR,

The House of Commons' amendments were agreed to.

ENDOWED CHARITIES.

This Bill was read a third time and passed.

HOUSE OF COMMONS.

Friday, June 29.

TRANSFER OF REAL ESTATE.

BANKRUPTCY AND INSOLVENCY.

In reply to a question from Mr. Scully,

The SOLICITOR-GENERAL said that, having regard to the difficulties of the question, and the late period of the session, the Attorney-General would not bring in the Bill relating to the transfer of real estates this session, but that an endeavour would be made to pass the Bankruptcy and Insolvency Bill this session.

Monday, July 2.

LANDS CLAUSES CONSOLIDATION ACT (1845) AMENDMENT.

This Bill passed through committee.

ADMIRALTY COURT JURISDICTION (No. 2).

This Bill also passed through committee.

INDEMNITY.

Mr. CLIVE obtained leave to introduce a Bill to indemnify such persons in the United Kingdom as have omitted to qualify themselves for offices, &c.

Tuesday, July 3.

ATTORNEYS, SOLICITORS, PROCTORS, AND CONVEYANCERS,

Upon the order for going into committee on this Bill,

Mr. BOVILL presented eighteen petitions from Rochester Stroud, and other places, in favour of this Bill.

The House then went into committee, Mr. MASSEY in the chair, when an

HON. MEMBER noticed that there were not forty members present.

The CHAIRMAN having counted the House, and found that there were only thirty-three members present, left the chair at the table, and sent for the Speaker, the Serjeant-at-Arms standing at the door, and preventing members from entering or leaving the House. On the arrival of the Speaker the Chairman reported that only thirty-three members were present. The Speaker then counted the House again, and finding that there were only thirty-four members present, he thereupon declared the House adjourned.

Wednesday, July 4.

LAWS RELATING TO LARCENY.

Viscount RAYNHAM obtained leave to introduce a Bill to amend the 7 & 8 Geo. 4, c. 29, for consolidating and amending the laws in England relative to larceny and other offences connected therewith.

HACKNEY CARRIAGES ACT.

The noble lord also obtained leave to introduce a Bill to amend the 16 & 17 Vict. c. 33, for the better regulation of metropolitan stage and hackney carriages.

NEW WRIT.

Colonel TAYLOR moved that the Speaker do issue his warrant for a new writ for the election of a member to represent the county of Donegal, in the room of Sir E. Hayes, deceased.

The motion was agreed to.

Thursday, July 5.

THE NEW COMMISSIONER OF THE INSOLVENT DEBTORS' COURT.

In reply to Mr. JAMES,

Sir G. C. LEWIS stated that Mr. Nichols, who had previously acted on more occasions than one as deputy to Mr. Serjeant Murphy, had been appointed his successor as Commissioner of the Insolvent Debtors' Court; and he accepted the office on the express understanding, in writing, that he should not be entitled to any compensation in the event of his office being abolished by Act of Parliament.

PENDING MEASURES OF LEGISLATION.

LARCENY, &c.

(*Continued from page* 687.)

74 Tenant or lodger stealing chattel or fixture let to hire, with house or lodgings, guilty of felony, and liable to be imprisoned for any term not exceeding two years, with or without hard labour, and with or without solitary confinement, and, if a male under the age of eighteen years, with or without whipping; and in case the value of such chattel or fixture shall exceed the sum of five pounds, shall be liable to be kept in penal servitude for any term not exceeding seven years and not less than three years, or to be imprisoned for any term not exceeding two years, with or without hard labour, and with or without solitary confinement, and, if a male under the age of eighteen years, with or without whipping. Indictment may be preferred in the common form as for larceny, and in every case of stealing any fixture in the same form as if the offender were not a tenant or lodger, and in either case to lay the property in the owner or person letting to hire.

75. Agent, banker, &c., embezzling money or selling securities &c. intrusted to him, guilty of a misdemeanor, and liable to be kept in penal servitude for any term not exceeding seven years and not less than three years, or to be imprisoned for any term not exceeding two years, with or without hard labour, and with or without solitary confinement; but nothing herein contained relating to agents to affect trustees or mortgagees nor bankers, &c. receiving money due on securities, and from selling or disposing of securities on which they have a lien.

76. Bankers, &c., fraudulently selling, &c., property intrusted to their care, guilty of a misdemeanor, and liable to any of the punishments which the Court may award as hereinbefore last mentioned.

77. Persons under powers of attorney fraudulently selling property, guilty of a misdemeanor, and liable to any of the punishments which the Court may award as hereinbefore last mentioned.

78. Factors obtaining advances on the property of their principals, guilty of a misdemeanor, and liable to any of the punishments which the Court may award as hereinbefore last mentioned; and clerks, &c., wilfully assisting, guilty of a misdemeanor, and being convicted liable to any of the same punishments. No factor or agent shall be liable to prosecution for consigning, depositing, transferring, or delivering any such goods or documents of title, in case the same shall not be made a security for or subject to the payment of any greater sum of money than the amount which at the time of such consignment, &c., was justly due to such agent from his principal, together with the amount of any bill of exchange drawn by or on account of such principal, and accepted by such factor or agent.

79. Definition of the words "pledge," "possessed," "advance," "contract or agreement or advance." Possession to be evidence of intrusting.

80. Trustees, fraudulently disposing of property, guilty of a misdemeanor, and liable to any of the punishments which the Court may award as hereinbefore last mentioned. No prosecution shall be commenced without the sanction of some judge or the Attorney-General.

81, 82, 83, 84. Directors, &c., of any body corporate or public company fraudulently appropriating property, or keeping fraudulent accounts, or wilfully destroying books, &c., or publishing fraudulent statements, guilty of a misdemeanor, and liable to any of the punishments which the Court may award, as hereinbefore last mentioned.

85. Nothing in any of the last ten preceding sections contained shall entitle any person to refuse to make a full and complete discovery by answer to any bill in equity, or to answer any question or interrogatory in any civil proceeding in any Court, or upon the hearing of any matter in bankruptcy, or insolvency; but no answer to any such bill, question, or interrogatory shall be admissible in evidence against such person in any proceeding whatsoever.

86. No remedy at law or in equity to be affected, and convictions not to be received in evidence in civil suits.

87. No misdemeanor against any of the last twelve preceding sections of this Act shall be prosecuted or tried at any court of general or quarter sessions of the peace.

88. Whosoever shall by any false pretence obtain from any other person any chattel, money, or valuable security, with intent to defraud, shall be guilty of a misdemeanor, and being convicted thereof shall be liable to be imprisoned for any term not exceeding three years, with or without hard labour, and with or without solitary confinement. If upon the trial of any person indicted for such misdemeanor it shall be proved that he obtained the property in question in such manner as to amount in law to larceny, is not to be acquitted of such misdemeanor; and no person tried for such misdemeanor shall be liable to be afterwards prosecuted for larceny upon the same facts. It shall be sufficient in any indictment for obtaining any such property by false pretences to allege that the party accused did the act with intent to defraud, without alleging an intent to defraud any particular person, and without alleging any ownership of the chattel, &c., and on the trial of such indictment it shall not be necessary to prove an intent to defraud any particular person, but it shall be sufficient to prove that the party accused did the act charged with an intent to defraud.

89. Whosoever shall by any false pretence cause any money to be paid, or any chattel, or valuable security, to be delivered to any other person, for the use on account of the person making such false pretence, or of any other person, with intent to defraud, shall be deemed to have obtained such money, &c., within the meaning of the last preceding section.

90. Inducing persons by fraud to execute deeds and other instruments a misdemeanor, and offender liable to be imprisoned for any term not exceeding three years, with or without hard labour, and with or without solitary confinement.

91. Whosoever shall receive any chattel, &c., the stealing &c. of which shall amount to a felony, either at common law or by virtue of this Act; knowing the same to have been feloniously stolen, &c., shall be guilty of felony, and may be indicted and convicted either as an accessory after the fact or for a substantive felony, and in the latter case, whether the principal felon shall or shall not have been previously convicted, or shall or shall not be amenable to justice; and every such receiver shall be liable to be kept in penal servitude for any term not exceeding fourteen years, and not less than three years,—or to be imprisoned for any term not exceeding two years, with or without hard labour, and with or without solitary confinement, and, if a male under the age of eighteen years, with or without whipping. No person, howsoever tried for receiving, shall be liable to be prosecuted a second time for the same offence.

92. In indictment for stealing and receiving, it shall be lawful to add a count for feloniously stealing the same; and where any such indictment shall have been found against any person, the prosecutor shall not be put to his election, but it shall be lawful for the jury who shall try the same to find a verdict of guilty, either of stealing, or of receiving.

(*To be concluded in our next.*)

NOTICES OF MOTION.

HOUSE OF COMMONS,

Monday, July 9.

HUSBAND AND WIFE RELATION LAW AMENDMENT (SCOTLAND).

Committee to meet.

LANDS CLAUSES CONSOLIDATION ACT, 1845.

Bill to be read a third time, and amendments to be moved by Mr. Estcourt and Mr. Lygon.

PROFESSIONAL OATHS ABOLITION.

Committee deferred to this day, and Mr. Newdegate that the House will, upon this day three months, resolve itself into the said committee.

TRANSFER OF REAL ESTATES.

Mr. Hopwood to ask Mr. Attorney-General whether he intends to proceed this session with the Bill to amend the law relating to the transfer of real estates, and the title thereto.

Thursday, July 12.

TRUSTEES, MORTGAGEES, &c.

The second reading of this Bill appointed.

OFFENCES AGAINST THE PERSON.

MALICIOUS INJURIES TO PROPERTY.

COINAGE.

ACCESSORIES AND ABETTORS.

FORGERY.

LARCENY.

CRIMINAL STATUTES REPEAL.

Committees deferred till this day.

FELONY AND MISDEMEANOUR.

Recommitted for this day; and Mr. Hunt to move "that when at the trial of any person for any felony or misdemeanour, any witness shall be called and give evidence, by or on behalf of such person other than witnesses merely to the character of such person, the cost of such witness shall be allowed, if the judge at the trial shall certify the evidence to be material."

CROWN DEBTS AND JUDGMENTS.

Bill to simplify and amend the practice as to the entry of satisfaction on Crown debts, and on judgments, to be read a second time.

STIPENDIARY MAGISTRATES.

Committee on this Bill to meet, and Mr. Sheridan to move amendments.

Friday, July 13.

Laws relating to Larceny Bill to amend, to be read a second time.

Recent Decisions.

COMMON LAW.

[*Common Law, by* JAMES STEPHEN, Esq., *Barrister-at-Law.*]

LAW AS TO CHEQUES, &c.—SUMMARY PROCEDURE ACT, 1855.

Eyre v. *Waller*, 8 W. R., Exch., 450.

There can be no doubt that in the eye of the law a *cheque* is a particular species of bill of exchange; one, namely, which is addressed to a banker and payable to a certain person, or to his order, or to the bearer, as the case may be. And in like manner, a *bank note* is simply a promissory note made by a banker. It is true that the forms of these instruments are not conceived precisely in the same terms as ordinary bills or notes; but this circumstance does not affect their legal character. It has been expressly and very frequently held that no particular form of words is requisite to constitute a note or a bill; all that is essential is, that in the instrument which is to operate as a note, the maker thereof shall undertake himself to pay to the payee the money therein named in the words therein specified, and that in the instrument which is to operate as a bill of exchange, the drawer shall undertake that the drawee will pay to the payee the sum therein named in the mode therein specified. Provided these requisites be satisfied, the instrument carries with it the incidents which attach by law to its class. Some of these require to be expressed on the face of the instrument; some do not. For example, in the case of a bill of exchange, one of these incidents is, that on the drawee's *acceptance* thereof, the latter becomes liable to pay it when duly presented for payment; but this incident of acceptance is not essential to the character of the instrument; for an ordinary bill of exchange may in its terms dispense with the necessity for acceptance; in which case, of course, the holder's only remedy on it is against a prior indorser or against the drawer. Such is the species of instrument called a bank post bill, when made, as it often is, "not to be accepted;" and such is an ordinary banker's cheque. This being so, the framers of the Summary Procedure on Bills of Exchange Act, 1855 (18 & 19 Vict. c. 67), very properly abstained from specifying any particular species of bills of exchange or promissory notes, but referred to actions on these instruments generally; and with equal propriety the Court of Exchequer, in the present case, held that banker's cheques (and of course bank notes) were within the provisions of the Act, and that the holders of these instruments were entitled to the summary remedy thereby given. It follows that most of the other legal incidents attaching to bills of exchange and promissory notes, attach also to cheques and bank notes; though there are exceptions to this, as in the case of the incident of acceptance just referred to. Among those incidents, however, which do attach, it may be mentioned that the right of action on a cheque or note passes by indorsement and delivery, and that the right to recover *interest* on them depends upon the same considerations as govern that question with regard to bills and notes generally. The law as to this appears to be, that interest by way of damages is by law given to the holder of bills and notes on the ground of mercantile usage; and that though before the statute 3 & 4 Will. 4, c. 42, juries were at liberty, if they chose, to withhold interest, they must now, if required, add it to the sum expressed to be payable on the instrument itself. The only difference is with regard to the time from which the interest begins to run. In the case of a bill or note payable at a future day, the interest (as against the drawer, acceptor or maker), runs from the maturity of the instrument. In the case of a promissory note payable on demand, it has been held that the plaintiff is entitled to recover interest from the time of the service of the writ of summons in an action thereon (*Pierce* v. *Fothergill*, 2 Scott, 334.) It is apprehended that a banker's cheque would carry interest from the same period. The only doubt seems to be, whether it would not carry it from the time that payment of the cheque was refused (see Anon. 1 Jur. 844.)

It follows from the above considerations, that not only is interest recoverable on a cheque by the verdict of a jury, if proceedings thereon be taken in the ordinary way; but that, if recourse be had to the Summary Procedure Act, the sum due as interest may be added to that made payable by the instrument, and endorsed on the writ. If this be done, and the defendant does not obtain leave to defend the action, judgment may be signed for such aggregate sum, and execution issue accordingly. The Act expressly authorises this course with respect to "bills of exchange and notes," and, as above explained, cheques and bank-notes are only species of the same classes of instruments.

ARTICLED CLERK—APPLICATION TO BE ALLOWED TO STAMP, ENROL, AND COUNT DEFECTIVE AND ABANDONED ARTICLES.

Ex parte Parker, 8 W. R., Q. B., 460.

No opportunity has for some time presented itself for noticing an application to the courts on behalf of one who has partly served under defective articles), to be allowed (by stamping and enrolling those articles, to make them supplementary to a fresh service. One of the last cases on this subject was that of *Fenton** (7 W. R., Q. B., 160), where the applicant had been originally articled to, and served under, his father for three years, and on whose death it was discovered that the articles were unstamped. Thirteen years after, the Court allowed these articles to be stamped (under 19 & 20 Vict. c. 81), and enrolled (under 7 & 8 Vict. c. 80, s. 2), so as to form a good foundation for a supplementary service. In the present case, they refused a similar application, in which it appeared that though the original neglect in stamping the articles had not been owing to the fault of the applicant, yet that the original articles had been *wholly abandoned*, and that, in the interim, the applicant had embraced the cognate but distinct profession of a barrister. It was argued that for the purposes of the application, the two branches of the profession must be regarded as identical, and that the real question was how the applicant had been engaged since the death of his first master, and whether or no his employment was such as to render him less competent to perform the duties of an attorney, than he would otherwise have been. But the Court said, that without attempting to lay down any universal rule, it was sufficient to remark with reference to the present case, that the two

* See 3 Sol. J., p. 206.

branches of the law ought to be kept quite distinct, and that it was by no means desirable that a man should be able at any caprice to go over from one to the other. They, consequently, refused the application.

Correspondence.

CHANCERY DELAYS.

SIR,—I write to you to call the attention of the profession to a crying evil—the delays in the Registrars' Office of the Court of Chancery.

I will give an instance with dates and names of what is a *common* occurrence in the office.

On the 9th of June the Vice-Chancellor Stuart made an order on further consideration on the hearing of a short cause—*Sanders v. Keep*. The order is by no means complicated, for it makes but eight sides now that it is complete (with all the prefatory matter). On the very same day, before the cause had been disposed of an hour, all the papers were left with the registrar, with minutes already drawn and signed by counsel. It is a positive fact, that the greatest importunity on the part of my clerk has failed to extract this order from the registrar's office complete till this day—twenty-four days after the order was pronounced. There was but one appointment to settle the draft order, which the solicitors attended; and the order was then completely settled by agreement of all parties. There was but *one* appointment to pass the order, which was attended by all parties, and the order was passed. There never was a hitch of any sort from first to last; and yet the most pertinacious efforts to get the order in less time have failed.

The registrars must be hard-worked, ill-used men; and so are the suitors.

Give my name. I can verify every part here stated, if necessary, upon oath.—Yours, C. E. LEWIS.

6 Old Jewry, July 3.

THE PRIVY COUNCIL AND THE CHANCERY JUDGES' CHAMBERS.

Many of your readers may wonder at the combination of these two subjects. But if the Lords Justices were not occupied at the former, they would be able to hear special cases and other matters, to be freed from which would give the Master of the Rolls and Vice-Chancellors more time to attend to their business at the latter. The pressure of causes set down for hearing on one, at least, of the Vice-Chancellors is very great. The chief clerks are fully occupied, principally because their judges have so little time for chamber business; and yet the Lords Justices must fill up their spare time by going to the Privy Council; notwithstanding, by reason of there being numerous other judges fully competent to transact the business without them, there can be no occasion for their assistance.

A CHANCERY SUITOR.

INTEREST ON CHEQUES.

Most of your readers are probably aware that *Eyre & another* v. *Waller*, 8 Weekly Reporter, 450 (Exchequer) decides that the holder of a *cheque* is entitled to the remedy given by the Summary Procedure on Bills of Exchange Act, 1855 (18 & 19 Vict. c. 67).

Can any of your readers inform me whether, under those circumstances, the cheque would carry *interest* by the same authority that bills of exchange do (whatever that may be), as where the cheque amounts to *just* £20, it would, for more reasons than one, be of some importance? Also, whether a solicitor having issued a writ under the Act upon a cheque for £20, and added 1*s.* for interest, is justified in signing judgment for the £20 1*s.* and costs, and proceeding accordingly? These are questions of practical importance to many of us at the present time; and I should be glad of the opinion of any of your readers.

NEMO.

[Our correspondent will find all the information that he requires as to his first question, in our present number, under the head of Recent Decisions at Common Law.—ED. S. J.]

The Provinces.

BIRMINGHAM.—The ceremony of presenting to the Midland Institute the portrait of Mr. Arthur Ryland, the eminent solicitor of that town, took place on Monday night; and on the same occasion presentations were also made to Mr. and to Mrs. Ryland themselves. That to Mr. Ryland consisted of a handsome volume, illustrative of the process of chromo-lithography, and that to Mrs. Ryland of an elegant arabesque inkstand, in oxidised silver and gold. In the unavoidable absence of Sir F. E. Scott (the president of the institution), Mr. J. B. Hebbert (vice-president) took the chair. A numerous circle of friends assembled to do honour to the occasion. The painting was by Sir J. Watson Gordon. The Mayor said he should, under ordinary circumstances, have felt diffident in undertaking the duty imposed on him, but more especially did he feel so, when that duty involved a presentation which took the form of a compliment to a gentleman whom he held to be one of the dearest friends he had in this town, and therefore he could truly say that he regretted it had not fallen into abler hands. He felt sure that it was unnecessary for him to say to those around him—for they were all persons who had taken an active part in the establishment of that institution—that the name of Mr. Ryland, in connection with the building in which they were met, was as "familiar as household words." Unquestionably, the movement for its establishment owed its success to Mr. Ryland's zeal, perseverance, and energy, and, as having been the originator of that noble building, with all its admirable classes, he might be truly regarded as the benefactor of his town. From the first day of its commencement no person had worked harder for its advancement than Mr. Ryland had done; and if the childless millionaire who gave a large portion of his wealth to the nation was honoured for his gift, surely a gentleman rendering to his town such services as Mr. Ryland had done was not less worthy, but even more deserving of our esteem. The presence of Mr. Ryland prevented him saying very much that he could have wished to say, but at the same time he could not help calling to mind the fact that the unprecedented sum of £20,000 had been raised for a movement whose value was incalculable, mainly by that gentleman's energy and activity. He conceived that a more graceful and agreeable testimonial than that about to be presented could not have been offered to one so entirely unselfish in all that he did. It would be presented to the Institute as one of the first of a gallery of portraits; and no matter whose followed—and doubtless there would be many—that would be second to none. He had very great pleasure, on behalf of the committee and of those who had subscribed, in presenting to the Institute the portrait of one of its best friends; and he had an additional pleasure in adding that the sum raised for its purchase had not been gathered by dint of hard solicitation, but, on the contrary, had been given voluntarily, as soon as the donors heard of the movement. The Chairman, on behalf of the Council, said he had the greatest satisfaction in receiving the magnificent gift of the Ryland Portrait Committee, as a testimonial to the great respect in which Mr. Ryland was held by the public at large, and as a memorial of the great services that gentleman had rendered to the Midland Institute. The Mayor then, in the name of the subscribers, presented to Mr. Ryland, in the absence of his lady, the silver inkstand intended as a testimonial to Mrs. Ryland.—Mr. Ryland, on rising, was greeted with prolonged applause. He said they might well imagine that he felt quite too deeply properly to acknowledge the very great kindness that had been conferred on him, or the very great kindness that had originated and carried out the mark of distinction thus given him. He could only say, with a very full heart and in all sincerity, that he never could forget their kindness, so long as memory remained. It was, indeed, a very great gratification to have one's endeavours approved by those whom one could respect, and it was doubly gratifying when that expression was connected with an object that we believed to be useful, because then one could receive it as an earnest that they would give that object their intention and support in future. They were at present only at the commencement of the work—indeed, the work of an institution like that could never be done—and, therefore, it was pleasing to find so many taking sufficient interest in it as to notice as they had done one amongst its founders. His gratification, however, great as it was, was not unaccompanied by some feelings of pain. He could not but feel that in placing himself so prominently forward, those who ought to be as prominent as himself were necessarily placed in shadow. He was, however, considerably relieved when he remembered that those who were thus as it were placed in shadow, had been the principal movers in the

matter. They had laboured together a long time, and they now had their reward in the great success which had attended their efforts. It was by a mere accident that he had taken a prominent part in the movement, and others had worked as hard as he had. They had, as he had said, had their reward in the success of their undertaking. They had a fine building, and classes meeting regularly; and although those classes were not attended so fully as some of their more impatient friends might desire, yet they had carried on the institution, and what was not the least amongst its benefits persons holding different opinions had in it worked together for the common good with the most perfect harmony.

LEEDS.—At the Borough Sessions held here on the 30th ultimo the question as to the right to appoint public prosecutors was again discussed before T. B. Maule, Esq., the Assistant-Recorder, in the course of the trial of five indictments against Samuel Ingledew and Mary Ann Doolan, for a conspiracy to defraud Messrs. Coxon & Linsley, pawnbrokers, together with other tradesmen. Two sets of counsel appeared for the prosecution, instructed by different solicitors. Mr. Wheelhouse, instructed by Messrs. Rawson & Markland, as the attorneys retained by Mr. Wildblood, one of the officers of the Magistrates' Court, who had been bound over to prosecute, and Mr. Campbell Foster, with whom was Mr. Bruce, instructed by Messrs. Ferns & Rooke, as the attorneys for Mr. Linsley and Mr. Blakey, being the parties aggrieved, but who had only been bound over as witnesses, claimed to appear for the prosecution. Considerable discussion then took place between the learned counsel as to their respective rights to appear; Mr. Foster contending that the 7 & 8 Geo. 4, c. 64, s. 22, recognised that the party who was bound by recognizances to prosecute or give evidence was entitled to receive the costs, and the party aggrieved was the proper person to be bound over. In *Reg.* v. *Bishop* (18 L. J. M. C. 53) it was decided that the party aggrieved was the real responsible prosecutor, and the party entitled to costs; though a nominal prosecutor might be bound over: and in *Reg.* v. *The Mayor of Manchester* (5 Queen's Bench, 402), the Court held that the plaintiff was not entitled to compensation for the loss of his appointment as public prosecutor, because the appointment under which he had acted was a species of patronage which did not belong to the corporation.—Mr. Wheelhouse, on the other side, contended that by the 11 & 12 Vict. c. 42, s. 20, and the schedule thereto, the Legislature had given the justices a discretionary power as to who they should bind over, and the 7 & 8 Geo. 4 clearly showed that the person who was bound over was the prosecutor in the eye of the law. The learned assistant-recorder then left the court for the purpose of consulting the recorder, and on his return said that his Honour considered that all that could be done in the first instance would be to ascertain which indictment had first come down from the grand jury, and to hear the gentlemen retained by those who had prepared such indictment, and reserve the question of the costs until the trial was over: As Messrs. Rawson & Markland's indictment was first, he must therefore call upon Mr. Wheelhouse to proceed. After the trial, the question of costs was again discussed, and Mr. Maule said that he would again confer with the recorder, as the subject was one of great importance both to attorneys and the bar, and would give his judgment the next day. On the following day, Mr. Maule accordingly gave judgment. He said:—Yesterday an application was made in the case of Mary Ann Doolan and Samuel Ingledew, for costs of prosecuting the indictments which had been preferred before the grand jury, which were found and returned into this court, and which were tried. Those indictments and costs are due to the parties who preferred the bills before the grand jury, and who prosecuted in this court. Then an application was made by the counsel who appeared in support of other indictments sent up for the same offences, founded upon the same evidence, and returned in a similar way through the grand jury room to this court, for the costs of the prosecutor in preferring those indictments and instructing counsel. It appears that in respect to the second batch of indictments the parties who originated the legal proceedings were two pawnbrokers acting in this case for the Pawnbrokers' Association of Leeds. They instructed separate counsel, and had separate batches of indictments, the necessity of which alone depended upon their really believing that the first indictments were uncertain in their carriage through the grand jury room, and in their conduct in this court. If they had good reason for believing that, in the conduct of the first batch of indictments and in the prosecution, the justice of the case would fail, or that there was any tampering with the witnesses, or any intention not to proceed on the first bills, or not to try the prisoners on the indictments returned upon them, then they would be justified in instructing counsel and having indictments sent up to prevent failure of justice from collusion. In that case the counsel who appeared on behalf of the said indictments sent up in the second instance, and who acted upon the *bonâ fide* belief that the first set would fail, would stand here on very good ground to claim their expenses, and these expenses will be allowed by the Court upon it being shown upon affidavit that the parties were actuated by a *bonâ fide* intention in instructing counsel in respect of such indictments.

MANCHESTER.—Daniel Maude, Esq., who has been appointed police magistrate at Greenwich, was on the 5th inst. presented with a handsome testimonial at the Town Hall, Manchester, on his retirement from the office of police magistrate of that city. The testimonial consisted of a timepiece, in ormolu, by Howell and James, of Paris, and five pieces of silver plate, value about £400. On one of the pieces of plate was the following inscription:—This salver is part of a service of plate presented to Daniel Maude, Esq., on his retirement from the office of police magistrate for the city of Manchester, by his fellow justices, in testimony of their personal regard, and as a memorial of their high estimation of the uprightness and ability, the attention, judgment, and courtesy, with which, for more than twenty years, he has discharged the varied, grave, and responsible duties of his important trust.—Manchester, 1860." The presentation took place in the presence of the magistrates and a considerable number of ladies.

STOCKTON.—It is stated that the county court commissioners have purchased the site of the old gas works at the south end of the High-street, Stockton, for the purpose of erecting a building for holding the county court. The structure will embrace the whole of the offices and conveniences necessary for the "machinery" of the court, and as the building is intended to be both commodious and elegant, will, doubtless form a very welcome addition to the public buildings of the town.

WYCOMBE.—At a meeting of the Town Council, held by adjournment on Wednesday, the 27th instant, the question of the town clerk's salary was opened by the Mayor, who said that it had originated entirely with himself. He had opportunites of seeing the duty to be performed, and he was convinced that the town clerk was much underpaid. The great reason for it was, that the fees of the clerk to the magistrates, which used to form part of the emoluments of the office, were now diverted to another channel. After some discussion, a motion for an increase of salary was proposed and carried. Mr. Hunt inquired if it was competent for the corporation to draw up fees for the magistrates' clerk, and if such a list would be binding?—The Town Clerk said that it was the duty of the council to fix the fees, which, when approved by the Secretary of State, would be binding. Failing these, the rule was to adopt the fees charged by the county magistrates' clerk.

Ireland.

At the sitting of the Court of Chancery in Dublin, on Tuesday, the 3rd instant, the following gentlemen were called within the bar:—Mr. Henry O'Hara, of the Leinster circuit; Mr. Dominick M'Causland, of the North-West circuit; Mr. Thomas K. Lowry, LL.D., of the North-East circuit; Mr. Henry M. Pilkington; Mr. John W. Carleton, of the Connaught circuit: Mr. Hugh Law, of the North-East circuit; Mr. Francis William Brady, of the Munster circuit; and Mr. Denis Caulfield Heron, LL.D., of the same circuit.

Societies and Institutions.

INCORPORATED LAW SOCIETY.

The Annual General Meeting of the members of this society took place on Tuesday, July 3, at their hall, in Chancery-lane, London. The chair was taken by JOHN IRVING GLENNIE, Esq., the President. The minutes of the last general and special meetings having been read, the President stated the vacancies in the council, and the following gentlemen were elected: Mr. WILLIAM STRICKLAND COOKSON, President, Mr. JOSEPH MAYNARD, Vice President, and Mr. Benjamin Austen, Mr. Keith Barnes, Mr. Ralph Barnes, Mr. John Coverdale, Mr. James Leman, Mr. William Henry Palmer, Mr. William Stephens, Mr. William Williams, and Mr. John Young, as members of the council. Mr. John Welshman Whateley, of

Birmingham, and Mr. William Ford, of Gray's-inn, were also elected members of the council in lieu of Mr. Edward Rowland Pickering, deceased, and Mr. William Loxham Farrer, resigned. The following auditors of the accounts of the society were also elected:—Mr. John Boodle, Mr. Charles Rose Lucas, and Mr. Stephen Williams.

The annual report of the council was then read by the secretary, comprising

1. A summary of the alterations in the law since the last annual meeting.

2. The several Bills in Parliament for the further alteration of the law.

3. The amendment of the law of attorneys, with a statement of the various steps taken in support of the Bill now in committee of the House of Commons.

4. The proposed concentration of the courts and offices, noticing the substance of the evidence which has been submitted to the commissioners, whose report is expected to be laid before Parliament in a few days.

5. The mode of taking evidence in Chancery, with the purport of the suggestions made by the equity committee of the society and submitted to the commissioners.

6. Several usages of the profession on questions of conveyancing practice submitted to the council for their decision.

7. The new rules and orders of practice, which have been printed for the use of the members, with suggestions for further improvements.

8. The examination of candidates for admission on the roll of attorneys, stating that during the last four terms, 344 were passed, and thirty-nine postponed. To the first class seventeen prizes were awarded; to the second class, thirty-five certificates of merit and favourable notice, of nine who were above the age of twenty-six.

9. Cases of alleged malpractice, of which upwards of twenty have been investigated during the year, either against attorneys or persons assuming to act as such without authority.

10. As to the affairs of the society it appeared from the auditors' report, that the state of the funds of the society was very satisfactory; that the subscribers to the lectures in the Hall had continued to increase; that various donations from members and others had been received for the library, and including the purchases of new works, the collection now amounted to 15,384 volumes, and during the past year 210 articled clerks have resorted to the library.

At the last annual meeting the number of members was 1,693, and during the current year 125 new members have been elected, after deducting the deaths and retirements, there are now 1,354 town, and 417 country members. According to a resolution at the last annual general meeting the admission fee of members practising in the country was reduced from £5 to £2, and when this alteration becomes generally known it is anticipated that the society will be largely supported by provincial members.

The report of the council was approved and ordered to be entered on the minutes.

The thanks of the meeting were then presented to the President, Vice-President, and Council, and to the Secretary.

THE JURIDICAL SOCIETY.

On Monday, the 2nd of July, the following question was debated:—

"Whether in criminal trials the parties accused and their wives or husbands ought to be competent witnesses."

Mr. Charles H. Hopwood opened the discussion, giving a short history of the recent Acts upon the subject of evidence, and avowed himself an advocate for the affirmative of the question. The word "competent," he thought, must be taken to mean "compellable" also, conceiving that there could be no change of the law merely to make it a privilege of the accused, but that the privilege and burden must be taken together. He first took the case of a wife of the accused, assuming that whatever reasoning applied to her would include the case of a husband. Her husband, he was entitled to assume, might be an innocent man; what answer was there to the justice of the claim of such a man, that she who best knew his character, habits, and movements, and could prove his innocence, should be called to testify on his behalf? Surely it was none to say that sometimes if it were allowed, a wife would be compelled to convict a guilty husband. In Mr. Hatch's case it was clear at the first trial that the wife could have given evidence to acquit or to convict. Besides, the principle should be to remove out of every man's way any inducement to commit crime, every safeguard from detection. But here the law actually provided a safe accomplice. It was, however, said to be harsh to impose the alternative of the penalty of perjury or the conviction of a husband. Surely it was equally so to deny to an innocent man the right to call an important witness. But granted that it was painful to public feeling, yet the "essence of law is a choice of evils." Many such abound in life where the fate of the innocent and guilty are inextricably involved. As a rule, like married like; and it was generally the case that the wife was no better than the husband. The few who were so unfortunate as to be joined to guilty mates, deplorable as it might be, could not be taken into account in legislating on this subject. It was said that one subjected to so great a temptation would falsify the facts; but in cases where the danger to the husband was only a few months' imprisonment, the feeling of self-preservation would come in with a fear of the penalties of perjury. If death or transportation were the penalty to the accused husband, still the wife's evidence would be tested on behalf of public justice. The only true principle would thus be followed, viz., that the judges of the fact should be afforded every possible source of information. Besides, the reluctance of the Crown to call adverse witnesses would reduce the number of instances in which wives would be called, to those in which it was absolutely necessary.

With regard to the power of examining the accused, if innocent, he would gladly avail himself of it, and it would be unjust and unfair to deny it to him. If guilty, it would be just and right that he should be convicted. Perhaps the prejudice against this was attributable to the unseemly scenes in France. He ought to be called and examined as any other witness. An innocent man might be confused—still he has only one story, the truth, to adhere to; but the guilty one, though possibly possessed of more effrontery, would have to evade the windings of a cross-examination, testing his ingenuity at every turn. Besides, it would put an end to that powerful argument of prisoners' counsel, that the man's mouth is closed. Mr. Hopwood proceeded to point out many inconsistencies in the law. The case of Mr. Hatch, who on the second trial, was virtually the accused, giving evidence and being cross-examined on his own behalf. His wife also was the wife of an accused, giving evidence for or against him. A mistress living with a man a number of years, was as much induced, he argued, by love for him to give false testimony, yet she was admissible. The same observation applied to the second wife's evidence on a charge of bigamy. By every moral or religious law she was his wife. If sympathy with the accused was the ground of exclusion, why was not antipathy? If a man hated another, or had been injured by him, was he not likely to pervert the truth against him? Yet this was no ground for rejecting his evidence. Other inconsistencies were, examining accomplices who were in effect the accused, and bribed with a promise of pardon; the wife giving evidence against her husband in cases of violence, assault, or abduction; a child against a father, a sister against a brother, and finally, allowing the accused to make long statements of facts without proof or cross-examination. He contended, therefore, that the law was unsatisfactory, and calculated to obstruct and defeat justice.

Obituary.

ROBERT EDWARDS BROUGHTON, ESQ., F.R.S.

It is with great regret that we have to announce the death of this gentleman, who for upwards of thirty years was one of the metropolitan police magistrates. The learned gentleman, who had only retired from the bench a few weeks since, died on the 29th ultimo, after a short illness. On the Wednesday previously he was seized with an attack of paralysis, from which he never rallied. Mr. Broughton was called to the bar by the Honourable Society of the Inner Temple, on the 6th May, 1825. He was originally appointed one of the magistrates of Worship-street police court, from which, upon the retirement of Mr. Rawlinson, he was transferred to Marylebone, where he presided until his retirement. Mr. Broughton was universally respected for the honourable and upright manner in which he discharged the duties of his office for so many years. He was ever a patient and willing listener to the tale of distress, and

ready not only to redress a wrong, but also to alleviate suffering arising from it. His name appears inscribed on the list of most of the London charitable institutions, which, together with the poor, will feel the loss of this truly philanthropic gentleman.

Court Papers.

Transfer of Chancery Causes.

29th June, 1860.

Whereas from the present state of the business before the Vice-Chancellors Sir Richard Torin Kindersley and Sir William Page Wood respectively, it is expedient that a portion of the causes standing for hearing before the Vice-Chancellor Sir William Page Wood should be transferred to the Vice-Chancellor Sir Richard Torin Kindersley. Now, I do hereby order, that the several causes mentioned in the schedule hereunto subjoined, be accordingly transferred from the book of causes standing for hearing before the Vice-Chancellor Sir William Page Wood, to the book of causes for hearing before the Vice-Chancellor Sir Richard Torin Kindersley.

(Signed) CAMPBELL, C.

SCHEDULE.

Plaintiff.	Defendant.		Reference to Record.		
Stone.	Parker.	Motion for Decree.	1860	S	21
Deane.	Foster.	Ditto.	1859	D	24
Williams.	Nicholls.	Cause.	1859	W	106
Fraser.	Clark.	Cause.	1858	F	47
Dow.	Baker.	Motion for Decree.	1859	D	114
Hairby.	Keith.	Cause.	1859	H	137
Young.	Phillips.	Motion for Decree.	1859	Y	3
Hutton.	Hutton.	Ditto.	1859	H	127
Richards.	Richards.	Ditto.	1859	R	108
Dalston.	Hedley.	Ditto.	1858	D	130
Ingram.	Mdlnd. Ry. Co.	Ditto.	1859	I	66
Davies.	Marshall.	Ditto.	1860	D	20
Jarvis.	Moore.	Ditto.	1859	J	91
Langston.	Cooke.	Cause.	1858	L	102
Oakes.	Buckley.	Motion for Decree.	1860	O	4
Hadrick.	Sturgis.	Ditto.	1859	H	230
Tompson.	Hope.	Cause.	1859	T	112
Pickles.	Pickles.	Ditto.	1859	P	89
Bedwell.	Prudence.	Motion for Decree.	1860	B	10
Andrews.	Higgs.	Ditto.	1860	A	22

(Signed) CAMPBELL, C.

Births, Marriage, and Deaths.

BIRTHS.

BARLOW—On July 3, at Williamstown, Ireland, the wife of Frederick A. Barlow, Esq., Solicitor, of a son.

DICKENSON—On June 30, the wife of James Dickenson, Esq., of Lincoln's-inn, of twins, a son and a daughter.

FORRESTER—On July 3, at Malmsbury, the wife of William Forrester, Esq., Solicitor, of a son.

GLEN—On July 1, the wife of William Cunningham Glen, Esq., Barrister-at-Law, of a son.

GOLDSMID—On July 2, the wife of Augustus Goldsmid, Esq., Barrister-at-Law, of a son.

MACNAMARA—On June 28, the wife of H. T. J. Macnamara, Esq., Barrister-at-Law, of a daughter.

PULLEY—On June 27, the wife of William Pulley, Esq., of Lincoln's-inn, Barrister-at-Law, of a daughter.

SHERLOCK—On June 27, at Bandon, Ireland, the wife of George K. Sherlock, Esq., Solicitor, of a daughter.

MARRIAGE.

UNTHANK—WILLIAMS—On July 3, at Penshurst, Kent, John Unthank, Esq., a Master of the Court of Queen's Bench, to Mary, daughter of the late Lieutenant-Colonel Monier Williams.

DEATHS.

BARRETT—On July 1, William Barrett, Esq., of Bell-yard, Doctors'-Commons, in the 67th year of his age.

BROUGHTON—On June 29, R. E. Broughton, Esq., late one of the Magistrates of Marylebone Police Court.

FEW—On July 2, in the 83rd year of his age, R. Few, Esq., formerly of Henrietta-street, Covent-garden, and who practised as a Solicitor for upwards of 50 years.

GLOVER—On June 26, Helen, youngest daughter of H. Glover, Esq., Solicitor, Bolton.

HINES—On July 1, at Hartlepool, Frederick W. M., youngest son of John Hines, Esq., Solicitor.

WARD—On March 20, at Melbourne, Victoria, aged 37, William Frederick Ward, Esq., Barrister-at-Law.

Unclaimed Stock in the Bank of England.

The Amount of Stock heretofore standing in the following Names will be transferred to the Parties claiming the same, unless other Claimants appear within Three Months:—

COLES, JOHN, Esq., Throgmorton-street, and WILLIAM MOUNTFORD NURSE, Esq., Cumberland-terrace, Regent's-park, £291 7s. 3d. Consols.—Claimed by JAMES THOMPSON, surviving executor of William Mountford Nurse.

HEYWOOD, PETER, Esq., Torrington-square, Russell-square, London, JOHN SMITH, Jun., Esq., Plainville, near York, and SIR EDWARD DODSWORTH, Bart., Newland-park, near Wakefield, £251 11s. 6d. Consols.—Claimed by PETER HEYWOOD, the survivor.

Heirs at Law and Next of Kin.

Advertised for in the London Gazettes *and elsewhere.*

APPLEBY. William Appleby, who left Liverpool in May, 1850, to apply to Mr. W. J. Taylor, Merchant, Huddersfield, executor to his father's will.

ELLIS, JOSEPH, who died in August, 1837, and was a Baker somewhere in the east part of London. Thomas Ellis, brother of the above, to apply to the executor to the estate, Mr. Joseph Molyneux, 5, Hemblington-cottage, Queen's-road, Dalston.

MEREDITH AND BROWN FAMILIES. Heirs at law of Mary Meredith, daughter of Louis Meredith, who married Jane Brown, both of whom were living in London in 1796, to apply to Mr. Francis, 33, Store-street, Bedford-square.

English Funds and Railway Stock.

(Last Official Quotation during the week ending Friday evening.)

	ENGLISH FUNDS.	
	Bank Stock	..
	3 per Cent. Red. Ann..	93⅜
	3 per Cent. Cons. Ann.	93⅜
	New 3 per Cent. Ann..	93⅜
	New 2½ per Cent. Ann.	..
	Consols for account ..	93⅛
	Long Ann. (exp. Apr. 5, 1885)	..
	India Debentures, 1858.	96½
	Ditto 1859.	..
	India Stock	..
	India Loan Scrip.	..
	India 5 per Cent. 1859..	..
	India Bonds (£1000) ..	..
	Do. (under £1000).....	3 dis.
	Exch. Bills (£1000)....	par.
	Ditto (£500).....	par.
	Ditto (Small) ..	par.
	RAILWAY STOCK.	
Shrs.		
Stock	Birk. Lan. & Ch. Junc.	77
Stock	Bristol and Exeter	107
Stock	Caledonian	94¼
20	Cornwall	7
Stock	East Anglian	17
Stock	Eastern Counties	56½
Stock	Eastern Union A. Stock	38
Stock	Ditto B. Stock	27
Stock	East Lancashire	..
Stock	Edinburgh & Glasgow.	78
Stock	Edin. Perth, & Dundee	31
Stock	Glasgow and South-Western	105
Stock	Great Northern	116
Stock	Ditto A. Stock	116
Stock	Ditto B. Stock	133
Stock	Gt. Southn. & Westn. (Ireland)	114½
Stock	Great Western	70¾
Stock	Lancaster and Carlisle.	..
	Ditto Thirds..	..
	Ditto New Thirds..	..
Stock	Lancash. & Yorkshire	106

	RAILWAYS—*Continued.*	
Shrs.		
Stock	London and Blackwall.	71
Stock	Lon. Brighton & S. Coast	115
25	Lon. Chatham & Dover	13
Stock	London and N.-Wstrn..	102½
12½	Ditto Eighths	12⅜
Stock	London & S.-Westrn.	96
Stock	Man. Sheff. & Lincoln..	41½
Stock	Midland	118½
Stock	Ditto Birm. & Derby	96½
Stock	Norfolk.....	55
Stock	North British	63½
Stock	North-Eastn. (Berwck.)	97½
Stock	Ditto Leeds	82½
Stock	Ditto York	83½
Stock	North London.....	106
Stock	Oxford, Worcester, & Wolverhampton ..	46
20	Portsmouth.....	16
Stock	Scottish Central.....	115
Stock	Scot. N. E. Aberdeen Stock	33½
Stock	Do. Scotsh. Mid. Stk.	88
Stock	Shropshire Union	51
Stock	South Devon	46
Stock	South-Eastern	85½
Stock	South Wales	63
Stock	S. Yorkshire & R. Dun	81
25	Stockton & Darlington	40
Stock	Vale of Neath	50
	Lines at Fixed Rentals.	
Stock	Buckinghamshire	98
Stock	Chester and Holyhead.	52½
Stock	Ditto 5½ per Cent...	127
Stock	Ditto 5 per Cent ..	115
Stock	East Lincoln, guar. 6 per Cent	140
50	Hull and Selby	113
Stock	London and Greenwich	65
Stock	Ditto Preference..	120
Stock	Lon., Tilbury, Sthend ..	94
Stock	Shrewsbury & Hereftd.	106
Stock	Wilts and Somerset ..	93

London Gazettes.

Professional Partnerships Dissolved.

TUESDAY, *July* 3, 1860.

NORRIS, JAMES EDWARD, CHARLES MUSGRAVE NORRIS, & ADAM CROSSFIELD FOSTER, Attorneys and Solicitors, Halifax, by mutual consent. June 30.

FRIDAY, *July* 6, 1860.

RICHARDSON, HENRY MARRIOTT, ROBERT GUDGEON HINNELL, & JOHN RICHARDSON, Attorneys, Solicitors, & Conveyancers, Bolton, and 23, Dickinson-street, Manchester (Richardson, Hinnell, & Richardson), by effluxion of time. June 23.

Windings-up of Joint Stock Companies.

LIMITED IN BANKRUPTCY.

TUESDAY, *July* 3, 1860.

PLUMSTEAD, WOOLWICH, AND CHARLTON CONSUMERS PURE WATER COMPANY (Limited).—Commissioner Goulburn hath appointed Monday, 16th July, at 2, Basinghall-street, for the purpose of appointing an Official Liquidator to act concurrently with the Official Liquidator already named by the Court.

UNLIMITED, IN CHANCERY.

FRIDAY, *July* 6, 1860.

ALBION PORCELAIN AND BLEACHING CLAY COMPANY.—Petition for winding up, presented on July 4, will be heard before V. C. Wood on July 14. Tucker, Greville, & Tucker, Solicitors, 28, St. Swithen's-lane, London.

CHESTER MUSIC HALL COMPANY.—V. C. Wood will, on July 23, at 3, proceed to make a call on the contributories for £2 10s. per share.

GREAT WESTERN COAL COMPANY.—V. C. Kindersley did, on June 22, order to wind up.

GREAT WESTERN COAL COMPANY.—V. C. Kindersley will, on July 10, at 12, appoint an Official Manager (or Official Managers) of this Company.

GREAT WESTERN COAL COMPANY.—Creditors to come in and prove their debts before V. C. Kindersley.

NEW ENGINE COAL MINING COMPANY.—V. C. Wood purposes, on July 18, at 12, to proceed to make a further call on all contributories for £400 per share.

Creditors under 22 & 23 Vict. cap. 35.

Last Day of Claim.

TUESDAY, *July* 3, 1860.

BOX, ELIZABETH, Widow, Steyning, Sussex (who died June 13, 1808). Ingram, Solicitor, Steyning. Aug. 11.

CARPENTER, JOHN, Miller, Hunton Bridge, Abbotts Langley, Hertfordshire (who died on or about Aug. 22, 1859). Pain & Harrison, Solicitors, 2, New-inn, Strand, Middlesex. Aug. 10.

COWLEY, BARONESS, RIGHT HONOURABLE GEORGIANA CHARLOTTE AUGUSTA Widow, Hertford-street, May-fair, Middlesex (who died Jan. 18, 1860). Lyon, Barnes, & Ellis, Solicitors, 7, Spring-gardens, Westminster. Aug. 1.

FLETCHER, MARY ANN, Spinster, 27, High Road, Knightsbridge, Middlesex (who died Feb. 10, 1859). Weigall, Solicitor, 5, New Boswell-court, Lincoln's Inn. Aug. 10.

LASHMAR, PETER MARCHANT, Gent., Steyning, Sussex (who died on Nov. 4, 1859). Ingram, Solicitor, Steyning. Aug. 4.

LEE, GEORGE, Esq., 4, Terrace, Putney, Surrey (who died Oct. 18, 1857). Burne, Solicitor, 1, Carey-street. Aug. 1.

MARRIOTT, SOPHIA CATHERINE, Spinster, Newton House, Clifton-upon-Dunsmore, Warwickshire (who died Jan. 4, 1860). W. & E. Harris, Solicitors, Rugby. Aug. 1.

NOYES, MARIA, Widow formerly of 28, Portland-terrace, Regent's-park, Middlesex, and late of Coventry (who died Feb. 13, 1860). Gregory, Gregory, Skirrow, & Rowcliffe, Solicitors, 1, Bedford-row, London. Aug. 2.

POSTER, THOMAS, Farmer, Wavendon, Buckinghamshire (who died May 13, 1860). Dennis, Solicitor, Sheep-street, Northampton. Aug. 30.

PRYOR, REV. FREDERICK BELL, Clerk, Bennington, Hertfordshire (who died May 23, 1860). S. & T. Veasey, Solicitors, Baldock. Aug. 1.

RIBEYRE, MARQUISE DE, ELIZABETH LOUISA, late wife of the Marquis de Ribeyre, and late 2, St. James's-terrace, Regent's-park, Middlesex, and previously residing at Ford's Hotel, Manchester-street, Manchester-square (who died May 3, 1860). Edwards, Frankish, & Galland, Solicitors, 11, New Palace-yard, Westminster. Oct. 1.

TAYLOR, JOHN, Publican, formerly of the Swan and Horse Shoe, Gray's-inn-lane, Middlesex, and late of Blythe, Nottinghamshire (who died on Oct. 15, 1859), and SUSANNA TAYLOR, late of Blyth, Widow and Executrix of the said John Taylor (who died on March 8, 1860). Meredith & Lucas, Solicitors, 8, New-square, Lincoln's-inn. Aug. 1.

FRIDAY, *July* 6, 1860.

BANKS, WILLIAM, Attorney-at-Law & Solicitor, Preston (who died on or about June 29, 1859). Banks & Catterall, Solicitors, 9, Lime-street, Preston. Aug. 1.

BONHAM, JOHN, Coal Dealer, Northampon (who died on May 20, 1860). Dennis, Solicitor, Sheep-street, Northampton. Aug. 30.

BOWEN, MARY ANN, Brass Founder, Phœnix Foundry, Clerkenwell, Middlesex (who died on Nov. 25, 1859). Combs, Solicitor, 25 Bucklersbury. Aug. 1.

BUCKLEY, DUNCOMBE FREDERICK BATT, Esq., late Lieutenant and Captain in her Majesty's Scots Fusilier Guards (who died on or about Sept. 7, 1855). Leman & Co., 51, Lincoln's-inn-fields. Aug. 11.

BUSSELL, JOSEPH, Esq., Myerscough, Lancashire (who died on Jan. 22, 1860). Jackson, Solicitor, Lancaster. Oct. 1.

CARPENTER, JOHN, Miller, Hunton-bridge, Abbotts Langley, Hertfordshire (who died on or about Aug. 22, 1859). Pain & Harrison, Solicitors, 2, New-inn, Strand, Middlesex. Aug. 10.

DIXON, THOMAS, Saddlers' Ironmonger, Walsall, Staffordshire (who died on or about Aug. 27, 1855). Barnett, Marlow, & Barnett, Solicitors, Walsall. Aug. 18.

FAULKNER, CHARLES, Esq., 3, Macclesfield-street, Soho, Middlesex (who died on March 22, 1860). Ford & Lloyd, Solicitors, 4, Bloomsbury-square, Middlesex. Aug. 10.

GRAHAM, JOSEPH, Joiner, Wakefield (who died on April 19, 1859). Harrison & Smith, Solicitors, Wakefield. Sept. 1.

HARGEST, GEORGE, Mercantile Clerk, 21, Sun-street, St. Botolph, Bishopsgate, London (who died on Feb. 24, 1860). Davidson, Bradbury, & Hardwick, Solicitors, Weavers' Hall, 22, Basinghall-street, London. Sept. 1.

HOLROYD, JANE, Widow, Hollingrove, Burnley, Lancashire (who died on or about Jan. 17, 1860). Shaw & Co., Solicitors, Burnley. Aug. 4.

PARRY, OWEN, Timber Merchant & Sawyer, Liverpool (who died on or about Jan. 17, 1858). Payne, Solicitor, Liverpool. Aug. 1.

SCHLOEDER, ARCHIBALD, Esq., formerly of Demerara, in British Guiana, and late of Cleveland-row, St. James, and of Princes-street, Oxford-street, Middlesex (who died on June 15, 1860). Simpson, Roberts, & Simpson, Solicitors, 62, Moorgate-street, London. Sept. 30.

SHEPHERD, SWITHIN, Victualler, Bathwick, Bath (who died on Dec. 29, 1859). Gibbs, Solicitor, 4, Northumberland-buildings, Queen-square, Bath. Aug. 1.

Creditors under Estates in Chancery.

Last Day of Proof.

TUESDAY, *July* 3, 1860.

BONYTHON, WILLIAM, Beerseller, Cornwall Arms Beershop, Chapel-street, Edgware-road, Middlesex (who died in or about Dec. 1857). Jones *v.* Newport, V. C. Kindersley. July 25.

HOLDEN, WILLIAM, Gent., Southampton (who died in or about Feb. 1859). Chapman *v.* Bartlett, M.R. July 26.

KNEVETT, CHARLES, Kensington, Middlesex (who died on or about Feb. 11, 1860). Knevett *v.* Knevett, V. C. Stuart. July 23.

PRYOR, ROBERT, Gent., Haughley, Suffolk (who died in or about April, 1856). Freeman *v.* Gudgeon, V. C. Stuart. July 20.

ROSS, ROBERT, Esq., Rugby (who died in or about March, 1858). Ross *v.* Trebie, M.R. July 28.

SMITH, ALEXANDER STEWART, late of Hong Kong, and trading under the firm and style of Stewart Smith & Co., in London, and under the firm and style of Smith Brothers & Co., at San Francisco, in California (who died on or about April 25, 1859). Defries and Others *v.* Smith, V. C. Stuart. Feb. 14.

FRIDAY, *July* 6, 1860.

BRERETON, ABRAHAM, Gent., Pothouse Bridge, Staffordshire (who died in the year 1855). Brereton *v.* Brereton, V. C. Stuart. July 26.

CROCKENDEN, MARY ANN, Widow, late of Cannes, in the Empire of France, (who died in or about January, 1858). Fuller *v.* Chamier, V. C. Wood. Oct. 31.

CROCKENDEN, THOMAS, Esq., Rushford Lodge, Suffolk (who died in or about May, 1842). Fuller *v.* Chamier, V. C. Wood. Oct. 31.

GOODRICK, ALFRED, Grocer, 38, Hasker-street, Chelsea, Middlesex (who died in or about December, 1850). Goodrick *v.* Harvey, V. C. Stuart. July 23.

MADOCKS, ELIZA ANNE, Widow, Tregunter, Talgarth, Brecon (who died on July 30, 1859). Holford *v.* Roche & Others, M. R. August 3.

ROOKE, CHARLES, Esq., Colchester, Essex (who died in or about March, 1860). Kemp *v.* Rooke, V. C. Kindersley. August 1.

SMITH, GEORGE, Miller & Cattle Dealer, Stretton-en-le-fields, Derbyshire (who died on or about July 9, 1858). Goodall *v.* Smith, V. C. Stuart. August 4.

WOOD, SACKETT, Hartsdown, Saint John the Baptist, Kent (who died in or about April, 1818). Wood *v.* Baker, & Others, V. C. Stuart. August 4.

(County Palatine of Lancaster).

DALY, CHARLES BEACH, Manchester (who died in or about May last) Registrar county palatine of Lancaster, Manchester. August 4.

Assignments for Benefit of Creditors.

TUESDAY, *July* 3, 1860.

AUSTIN, WILLIAM, Draper & Tea Dealer, Barton-on-Humber, Lincolnshire. June 13. *Trustees*, R. Ritchie, Draper, Kingston-upon-Hull; E. Hollidge, Tea Dealer, Kingston-upon-Hull. *Sol.* Hollidge, 15, Humber-street, Hull.

BRUNYATE, WILLIAM, Druggist, Grocer, & Ironmonger, Castleford, Yorkshire. June 18. *Trustees*, F. Brunyate, Farmer, Haddlesey, Yorkshire; J. Wilson, Grocer, Pontefract. *Sol.* Clough, Star-yard, Pontefract.

FAULKNER, JOHN, Grocer & Provision Dealer, Wolverhampton, Staffordshire. June 9. *Trustees*, C. P. Faulkner, Farmer, Pattingham, Staffordshire; E. Crossfield, Tea Dealer, Liverpool. *Sol.* Evans, Liverpool.

LEISHMAN, ROBERT HASTIE, Merchant, Wrentham, Suffolk. June 30. *Trustees*, G. P. Freeman, Auctioneer, Nostenden, Suffolk; J. Read, Grocer & Draper, Wrentham, Suffolk. *Sol.* Gooding, Southwold, Suffolk.

MOORE, GEORGE HARDAY, Shoe Manufacturer, Northampton. June 13. *Trustees*, G. F. Newton, Leather Merchant, Northampton; J. Wetherell, Leather Merchant, Northampton. *Sol.* Dennis, 48, Sheep-street, Northampton.

SHAW, THOMAS, Draper, Lincoln. June 19. *Trustee*, A. Borland, Draper, Lincoln. *Sols.* Brown & Son, 32, Steep-hill, Lincoln.

TAYLOR, GEORGE JOSEPH, Manufacturer of Gilt Jewellery, Birmingham June 15. *Trustees*, W. Dugard, Rolling Mills, Shadwell-street, Birmingham; E. Heeley, Electro Plater, Birmingham. *Sol.* Williams, 26, Bennett's-hill, Birmingham.

WALKER, MARY, Widow, Trooper Inn, Northampton. June 29. *Trustee*, H. Rawlins, Wine and Spirit Merchant, Bedford. *Sols.* Ellis, Phillips, & Bannister, 12, Clement's-lane, Lombard-street, London.

FRIDAY, *July* 6, 1860.

ARUNDALE, JOSEPH, Grocer, Rothwell, Leeds. June 22. *Trustees*, J. Mason, Tea Merchant, Kingston-upon-Hull; T. Stephenson, Chemist & Druggist, Rothwell. *Sol.* Bell, 17, Parliament-street, Kingston-upon-Hull.

BYNNER, THOMAS, Draper, Shrewsbury. June 22. *Trustees*, S. Watts, Merchant, Manchester; T. F. Palmer, Warehouseman, Manchester. *Sol.* Worthington, Manchester.

GLOVER, JOHN, Linen Draper & Milliner, Warrington, Lancashire. July 2. *Trustees*, T. Kelly, Lace Merchant; P. Gillibrand, Merchant, both of Manchester. *Sol.* Worthington, Manchester.

LOWDER, THOMAS HENRY, & SAMUEL MOLYNEAUX LOWDER, Ironmongers, Cardiff, Glamorganshire. June 15. *Trustees*, J. Williams, Manufacturer, Birmingham; J. Haywood, Manufacturer, Sheffield; P. Hardy, Ironfounder, Worcester. *Sol.* Dalton, Cardiff.

PHILLIPS, JAMES, Draper, Audiem, Chester. June 14. *Trustee*, J. Phillips, Farmer, Bickley, Malpas, Chester. *Sol.* Machin, Audlem, Chester.

ROGERSON, JAMES TAYLOR, Cotton & Cotton Waste Dealer, Hatton's-court, Chadel-street, Salford, Lancashire. June 22. *Trustees*, E. Threlfall, Cotton & Cotton Waste Dealer, Bateman's-buildings, Blackfriars-street, Manchester. *Sol.* Stirke, 5, Princess-street, Manchester.

ROWE, NICHOLAS, Lamp Dealer, 15, Bush-lane, Cannon-street, London. May 30. *Trustees*, E. Ratcliff, Brassfounder, St. Paul's-square, Birmingham, and Frederick Gray, Brassfounder, Berkeley-street, Birmingham. *Sols.* E. & H. Wright, 6, Waterloo-street, Birmingham.

YARDLEY, ELI, Bookbinder & Milliner, Leamington-priors, Warwickshire. June 22. *Trustees*, Thomas Southorn, Boot manufacturer, Leamington-priors, and John Wright, Draper, Warwick. *Sol.* Snape, High-street, Warwick.

Bankrupts.

TUESDAY, *July* 3, 1860.

BASSETT, WILLIAM STEPHEN CHARLES WHITE, Grocer & Tea Dealer, Sheerness, Kent. *Com.* Goulburn: July 13, at 1; and Aug. 13, at 12.30; Basinghall-street. *Off. Ass.* Pennell. *Sols.* Blakeley & Stone, 26, Nicholas-lane, Lombard-street, City. *Pet.* June 25.

COLLINS, CHARLES THOMAS, Wine Merchant, Worcester, and 137, Fenchurch-street, London. *Com.* Sanders: July 19, and Aug. 9, at 11; Birmingham. *Off. Ass.* Whitmore. *Sols.* James & Knight, Birmingham; or Jones, Worcester. *Pet.* June 29.

GRIDLEY, GEORGE, Coach Maker & Cab Proprietor, 1, Matilda-street, Caledonian-road, Islington, Middlesex. *Com.* Holroyd: July 11, at 2.30; and Aug. 14, at 1.30; Basinghall-street. *Off. Ass.* Edwards.

HORMSFIELD, WILLIAM, Merchant & Commission Agent, Manchester. *Com.* Jemmett: July 17, and Aug. 3, at 12; Manchester. *Off. Ass.* Fraser. *Sols.* Atkinson, Saunders, & Herford, Manchester. *Pet.* June 20.

KLISZEZEWSKI, WLADISLOW SPIRIDION, Watch Maker & Jeweller, Cardiff, Glamorganshire (W. Spiridion.) *Com.* Hill: July 17, & Aug. 14, at 11; Bristol. *Off. Ass.* Acraman. *Sols.* Bevan, Girling, & Press, Bristol. *Pet.* June 29.

LORD, JOHN, Commission Agent, Birmingham (John Lord & Co.) *Com.* Sanders: July 16, and Aug. 8, at 11; Birmingham. *Off. Ass.* Kinnear. *Sols.* Hodgson & Allen, Birmingham; or Beale & Marigold, Birmingham. *Pet.* June 28.

MAIGNOL, EMMANUEL, Photographic & Stereoscopic Agent, 67, Newgate-street, London. *Com.* Goulburn: July 13, at 11; and Aug. 13, at 11.30; Basinghall-street. *Off. Ass.* Pennell. *Sol.* Aubin, 38, Moorgate-street. *Pet.* July 2.

PERRY, SAMUEL, Manure Dealer, Woodfield, Claverley, Salop. *Com.* San-

Aug. 1; Birmingham. *Off. Ass.* Whitmore. *Sols.* James & Knight, Birmingham; or Potts & Gordon, Bridgnorth. *Pet.* June 19.

PEPPERING, THOMAS ALFRED, Manure Dealer, 9, Pigott-street, Limehouse, Middlesex. *Com.* Holroyd: July 17, at 2.30; and Aug. 21, at 1; Basinghall-street. *Off. Ass.* Edwards. *Sol.* Frost, 138, Leadenhall-street, London. *Pet.* July 2.

PLAW, DAWSON, Draper, King's Lynn, Norfolk. *Com.* Holroyd: July 17, and Aug. 14, at 11.30; Basinghall-street. *Off. Ass.* Edwards. *Sols.* Lawrence, Plews, & Boyer, 14, Old Jewry-chambers, London. *Pet.* June 27.

WHITTINGHAM, WILLIAM, Corn Miller, St. Helen's, Lancaster (Samuel Tomlinson & Co.) *Com.* Perry: July 10, and Aug. 6, at 12; Liverpool. *Off. Ass.* Morgan. *Sols.* Evans, Son, & Sandys, Commerce court, Lord-street, Liverpool; or Ansdell, St. Helens. *Pet.* June 28.

FRIDAY, *July* 6, 1860.

ADDEN, JOHN, Leather Seller, 21, Pierrepont-row, Islington, Middlesex. *Com.* Holroyd: July 23, at 2; and Aug. 21, at 2.30; Basinghall-street. *Off. Ass.* Edwards. *Sols.* John & Walter Butler, 191, Tooley-street, Southwark, Surrey. *Pet.* July 5.

CHERRINGTON, BARCHEL, Druggist & Printer, Donington, Lincolnshire. *Com.* Sanders: July 17 and Aug. 9, at 11.30; Nottingham. *Off. Ass.* Harris. *Sol.* Maples, Nottingham. *Pet.* July 3.

CLAYTON, BEAUMONT, Stone Merchant, Ketton, Rutlandshire. *Com.* Holroyd: July 19, at 1.30; and Aug. 21, at 2; Basinghall-street. *Off. Ass.* Lee. *Sols.* Wright & Bonner, 15, London-street, Fenchurch-street; or Law, Stamford, Lincolnshire. *Pet.* July 3.

COHNREICH, ELIAS, ASCHER COHNREICH, & ISRAEL COHNREICH, Boot & Shoe Manufacturers, 13, Nassau-place, Commercial-road East, Middlesex. *Com.* Goulburn: July 16, at 2.30; and Aug. 20, at 12; Basinghall-street. *Off. Ass.* Pennell. *Sol.* Sydney, 33, Jewry-street, Aldgate, City. *Pet.* July 4.

GIBBS, BENJAMIN, Leather Merchant, 87, Bermondsey-street, Southwark, Surrey. *Com.* Goulburn: July 16, at 1.30; and Aug. 20, at 1; Basinghall-street. *Off. Ass.* Pennell. *Sols.* Slee & Robinson, Parish-street, Southwark. *Pet.* July 4.

HOUNSFIELD, WILLIAM, Merchant & Commission Agent, Manchester. *Com.* Jemmett: July 17, and Aug. 3, at 12; Manchester. *Off. Ass.* Fraser. *Sols.* Atkinson, Saunders, & Herford, Manchester. *Pet.* June 20.

LORD, JOHN, Merchant & Commission Agent, Birmingham (John Lord & Co.) *Com.* Sanders: July 16, and Aug. 8, at 11; Birmingham. *Off. Ass.* Kinnear. *Sols.* Hodgson & Allen, Birmingham, or Beale & Marigold, Birmingham. *Pet.* June 28.

PUTLER, HENRY, & SAMUEL JAMES JOHN HIND, Builders, Sutton, Surrey. *Com.* Fane: July 13, at 11.30; and Aug. 15, at 11; Basinghall-street. *Off. Ass.* Cannan. *Sols.* Jas. & Jno. Hopgood, 14, King William-street, Strand. *Pet.* July 3.

SANDER, SIMON, Merchant, 58, St. Mary Axe, London, and 48, Nelson-square, Surrey. *Com.* Holroyd: July 17, at 2; and Aug. 21, at 12.30; Basinghall-street. *Off. Ass.* Lee. *Sol.* Jones, 20, King's Arms-yard, Coleman-street, London. *Pet.* July 2.

SUTTON, LEWIS PHILIP, Wine & Spirit Dealer, Aberavon, Glamorganshire. *Com.* Hill: July 16 and Aug. 20, at 11; Bristol. *Off. Ass.* Miller. *Sol.* Miller, Bristol. *Pet.* June 20.

WALLIS, JOHN, Dealer in Oil Cake, Hitchin, Hertfordshire. *Com.* Goulburn: July 16, at 1; and Aug. 20, at 12.30; Basinghall-street. *Off. Ass.* Pennell. *Sols.* Peek & Downing, 10, Basinghall-street, London. *Pet.* June 29.

BANKRUPTCY ANNULLED.

FRIDAY, *July* 6, 1860.

MERRIEN, EDWARD RICHARDS, Builder, 6, Richmond-villas, Westbourne-grove North, Bayswater, Middlesex. July 3.

MEETINGS FOR PROOF OF DEBTS.

TUESDAY, *July* 3, 1860.

BARNETT, WILLIAM, Gas Engineer, & Gas Manufacturer, 81, London-road, Brighton. July 25, at 11.30; Basinghall-street.—BATEMAN, JAMES, Agent & Broker, Southampton-buildings, Middlesex. July 24, at 1; Basinghall-street.—DUNLOP, JOHN, Draper, Tredegar, Monmouthshire. July 26, at 11; Bristol.—GRANT, HENRY, Ship Chandler, Bute-street, Cardiff. July 26, at 11; Bristol.—JONES, CHARLES, jun., Coach Builder, & Harness Maker, 38, Margaret-street, Cavendish-square, and 21A, Gt. Castle-street, Regent-street, Middlesex. July 25, at 12.30; Basinghall-street.—M'CLURE, JAMES, General Merchant, Manchester. July 25, at 12; Manchester.—RUSLING, GEORGE, Licensed Victualler, Manchester. July 26, at 12; Manchester.—THORPE, JOHN, Grocer & Provision Dealer, 27, Warrington-street, Ashton-under-Lyne. July 27, at 12; Manchester.—TOOTAL, FREDERICK HENRY, Wine & Spirit Merchant, Carlton-buildings, Cooper-street, Manchester. Aug. 3, at 12; Manchester.—WOOTTON, JAMES, Builder, Oxford-street, Leicester. July 19, at 11; Nottingham.

FRIDAY, *July* 6, 1860.

BEDFORD, ISAAC HAWKER, & HENRY LIGHTON, Cut Glass Manufacturers, Birmingham. July 30, at 11; Birmingham.—CLAYTON, JAMES, & BENJAMIN LOCKWOOD, Silk Spinners, Rastrick. July 30, at 11; Leeds.—JENNINGS, THOMAS CRICKETT, Tea, Coffee, & Spice Dealer, Ipswich, Suffolk. July 27, at 1.30; Basinghall-street.—KIRKHAM, THOMAS, Spinner & Manufacturer, Albert Mill, Livesey, Blackburn. July 21, at 12; Manchester.—MILLS, GEORGE FREDERICK, Innkeeper, Tamworth. July 30, at 11; Birmingham.—PYKE, HENRY, Tailor, 7, Newcastle-place, Edgware-road, Middlesex. July 30, at 11; Basinghall-street.—RICHARDSON, GEORGE, & GEORGE TOMLINSON FRANCE, Cloth Merchants, Huddersfield. July 16, at 11; Leeds.—ROACH, CHARLES, Hosier, Devizes. July 27, at 11; Bristol.—SLADE, THOMAS, & THOMAS SLADE, jun., Oil Merchants, Bartholomew-close, Smithfield, London. July 28, at 12, Basinghall-street.—STACEY, MARSHALL THOMAS, Dealer in Tea & Tobacco, Leeds. July 27, at 12; Leeds.—VERICCHIO, DENIS NICHOLAS, Upholsterer & Furniture Dealer, 7, Wellington-terrace, Paddington, Middlesex (by the name Denis Nicholas Verrichio). July 30, at 11; Basinghall-street.—WILSON, JOHN, Ship Owner, John-street, Sunderland, July 18, at 2; Basinghall-street.

CERTIFICATES.

To be ALLOWED, *unless Notice be given, and Cause shown on Day of Meeting.*

TUESDAY, *July* 3, 1860.

BENAIMO, MEIR, & JAMES PICCIOTTO, Merchants, New Broad-street, London. July 24, at 2; Basinghall-street.—BROOKES, THOMAS, Boot & Shoe Manufacturer, Birmingham. July 26, at 11; Birmingham.—DRAKE, GEORGE, Jeweller, Dealer in Watches & Clocks, 17, Eversholt-street, Camden Town, Middlesex. July 25, at 11.30; Basinghall-street.—GOOSE, WILLIAM PYMAR, Builder, Downham Market, Norfolk. July 24, at 1; Basinghall-street.—LUND, GEORGE TAYLOR, Commission Agent, Manchester. July 25, at 12; Manchester.—MILLS, THOMAS, Chemist & Druggist, Ashton-under-Lyne, July 26, at 12; Manchester.—NEWEY, JOHN, & JOHN HAMPTON WILKINSON, Drapers, Wolverhampton. July 26, at 11; Birmingham.—SMITH, JAMES, Grocer & Provision Merchant, Fareham, Hants. July 25, at 1; Basinghall-street.—TOOTAL, FREDERICK HENRY, Wine & Spirit Merchant, Carlton-buildings, Cooper-street, Manchester. Aug. 3, at 12; Manchester.—VOKE, THOMAS, Confectioner & Grocer, Portsea. July 26, at 11; Basinghall-street.

FRIDAY, *July* 6, 1860.

CLARKE, JOHN GEORGE OLDFIELD, & ROBERT OLDFIELD, Millers & Corn Dealers, Lichfield (Oldfield & Clarke). July 30, at 11; Birmingham.—ENGLAND, JOHN, Photographic Apparatus Manufacturer, 56, Upper Charlotte-street, Fitzroy-square, Middlesex. July 27, at 2; Basinghall-street.—HAYWOOD, HENRY (alias JOSEPH HAYWOOD), Ribbon Manufacturer, Whitefriars-lane, Coventry. July 30, at 11; Birmingham.—HUNTER, WILLIAM, Ship Joiner & Carpenter, 80, Three Colt-street, Limehouse, Middlesex. July 30, at 12; Basinghall-street.—MOSS, STEPHEN, & WILLIAM ASHWORTH, Fustian Cutters, Dyers, & Finishers, Woodmill, Stansfield, Halifax (Moss & Ashworth). July 27, at 11; Leeds.—MUGGERIDGE, HENRY, Builder, 5, St. George's-place, Brixton-road, Surrey. July 27, at 12; Basinghall-street.—PROCTOR, WILLIAM, Linen Draper, Leeds. July 27, at 11; Leeds.—SPENCER, TIMOTHY, Tailor, 4, Artillery-place, Woolwich, Kent. July 30, at 12; Basinghall-street.—WEST, GEORGE, Mast & Block Maker, & Ship Owner, 265, Wapping, Middlesex. July 28, at 12; Basinghall-street.

To be DELIVERED, *unless* APPEAL *be duly entered.*

TUESDAY, *July* 3, 1860.

BLACKMORE, JAMES, Builder, Wellington, Somersetshire (Robert Blackmore & Son). June 27, 3rd class.—CHATWIN, JOSEPH, Gas Fitting Manufacturer, Birmingham. June 28, 3rd class.—GURNEY, THOMAS, & JOHN JACOBS, Tailors & Outfitters, Dover-place West, Dover-road, & Mount-place, Walworth-road, Surrey (Gurney & Jacobs). June 28, 3rd class.—HAWKS, PHILIP, Brickmaker, Kinson-lodge, Poole, Dorsetshire. June 27, 3rd class.—JAMES, WILLIAM, Bolt, Nut, Screw, & Tool Manufacturer, Dudley, Worcestershire. June 28, 3rd class.—KELSEY, JAMES, & EDMUND KELSEY, Tailors & Drapers, Nuneaton, Warwickshire. June 28, 2nd class.—WENHAM, JAMES, Watchmaker & Jeweller, Swaffham, Norfolk. June 30, 2nd class.—WILLIAMS, JOHN, Chemist, Druggist, Printer, Bookseller, & Stationer, Horsley-heath, Tipton, Staffordshire. April 5, 2nd class.

FRIDAY, *July* 6, 1860.

EVANS, JAMES, Cattle Dealer, Bristol. July 2, 2nd class.—M'ALPINE, JOHN, Ironmonger, 110, High-street, Cheltenham, Gloucestershire. July 2, 1st class.—WAGHORN, WILLIAM PRICE, Grocer & Draper, Stratton House, Westerham, Kent, late Tatsfield Court, Tatsfield, Surrey, and formerly Horsmonden, Kent. June 27, 1st class.

Scotch Sequestrations.

TUESDAY, *July* 3, 1860.

DRUMMOND, ALEXANDER, Commission Agent, Glasgow. July 11, at 12; London Hotel, Maxwell-street, Glasgow. *Sec.* June 28.

M'LEAN, JAMES GRANT, Merchant, Agent, & Dealer in shares, Glasgow. July 12, at 2; Procurator's-hall, St. George's-place, Glasgow. *Sec.* June 29.

FRIDAY, *July* 6, 1860.

WILSON, JOHN, Silversmith, 22, James-street, Calton, Glasgow. July 10, at 2; Globe Hotel, George-square, Glasgow. *Sec.* July 3.

WILSON, WILLIAM, Brick & Tile Maker, Stonefield, Blantyre, Lanarkshire. July 13, at 3; Hamilton Arms Inn (Arkle's), Hamilton. *Sec.* July 3.

BUCKINGHAMSHIRE.

The important and very beautiful Manorial Estate of Westhorpe, in the parish of Little Marlow, between the capital market town of Maidenhead, and the borough and market town of Great Marlow, near to High Wycombe, 30 miles from London, and within two miles of a station on the Great Western Railway; comprising an elegant modern mansion, distinguished as "Westhorpe House," with a park of about 100 acres; a fine old mansion, known as the "Manor House," with beautiful grounds and park-like paddocks; five excellent farms, with superior homesteads; valuable beech woods and plantations, an inn, several dwelling houses and cottages, including nearly the entire village of Little Marlow, and accommodation land in and near thereto; the whole comprising about 2,105 acres, in a ring fence, and producing a rental of £3,500 per annum or thereabouts, including a tithe rent charge of about £20, and some small quit rents.

MESSRS. RUSHWORTH & JARVIS are favoured with instructions to SELL by AUCTION, at the MART, on THURSDAY, JULY 26, the above very valuable FREEHOLD ESTATE, in the undermentioned Lots.

Lot 1 will comprise the manor of Little Marlow, co-extensive with the parish, the principal mansion, distinguished as "Westhorpe House," with excellent offices, capital stabling and appendages of every description, suited to a large establishment, with beautiful pleasure grounds, a park, and plantations, comprising altogether 121a. 1r. 9p., for many years the residence of the late Field-Marshal Sir George Nugent, Bart., G.C.B., &c., and of which possession may be had upon completion of the purchase; also Westhorpe Farm adjoining, comprising 341a. 1r. 7p., let on lease at £500 per annum.

Lot 2. The "Manor House," a most comfortable and desirable family residence, with capital offices, pleasure grounds, and meadow land, comprising altogether 31a. 2r. 28p., situate near to the village of Little Marlow, of which also possession may be had upon completion of the purchase.

Lot 3. An eligible farm known as "Wood Barn Farm," comprising 335a. 1r. 6p., let on lease at £400 per annum, and several interlying woods in hand, containing 20a. 3r. 3p., making the total quantity 356a. 0r. 11p.

Lot 4. "Monkton's Farm," comprising 240 acres, let on lease at a yearly rent of £245 4s."

Lot. 5. "Little Marlow Farm," containing 316a. 1r. 10p., let on lease at £414 10s. per annum.

Lots 6 and 7. Two very valuable enclosures of wood land, principally beech, known as "Horton Wood," containing 124a. 2r. 17p., and "The Warren," 234a. 0r. 32p. in hand.

Lots 8 to 29 will comprise the several detached cottages on different parts of the estate, and numerous dwelling houses, shops, an inn, and other premises in the village of Little Marlow, and valuable building and accommodation land in and near thereto.

Lot. 30. A small dairy farm, including valuable orchards and garden ground, near to the village, comprising 21a. 1r. 35p., let under a yearly tenancy at a rent of £50.

Lots 31 and 32. Two cottages and gardens situate near to the preceding lot.

Lot 33. A very valuable farm, known as "Spade Oak Farm," bounded on the south by the river Thames, comprising 265a. 0r. 8p., let on lease to a most excellent tenant, at £554 10s. per annum.

Lot 34. Four tenements near to the above farm, suitable for labourers' dwellings.

Lot 35. Two valuable eyots, and part of another eyot in the river, at present let at £12 yearly.

Lot 36. A perpetual tithe commutation rent charge of £22 5s. 6d. per annum, arising from lands in the parish of Little Marlow.

Lot 37. Four small quit rents, amounting to £1 per annum, in respect to cottages in the said parish.

Lot 38. An enclosure of arable land, situate in the adjoining parish of High Wycombe, known as "Rugg's Wood," containing 48a. 3r. 37p., of the present estimated annual value of £65.

A first edition of the particulars and plans are now ready, and may be obtained of Messrs. FARRER, OUVREY, & FARRER, Solicitors, 66, Lincoln's-inn-fields, W.C.; of Mr. HENRY LOFTS, Estate Agent, No. 5, Charles-street, Grosvenor-square, W.; and at the offices of Messrs. RUSHWORTH & JARVIS, Saville-row, Regent-street, W., and 19, Change-alley, Cornhill, E.C. The Estate can be seen at any time before the Sale, but the Mansions can only be viewed on Tuesdays and Fridays, upon application to Mr. GREEN, Little Marlow, of whom printed particulars may likewise be obtained.

TO BE SOLD, pursuant to an Order of the High Court of Chancery, made in a cause of Green *v.* Gascoyne, with the approbation of the Vice-Chancellor Sir Richard Torin Kindersley, the judge to whose court this cause is attached, by Mr. WILLIAM ELWORTHY, the person appointed by the said judge, at the WHITE LION HOTEL, at WISBEACH, in the County of Cambridge, on SATURDAY, the 11th day of AUGUST, 1860, at FOUR of the clock in the afternoon precisely, in Three Lots, a FREEHOLD FARM HOUSE, with the farm yards and outbuildings thereto belonging, and 150 acres or thereabouts of freehold adventurers land, situate at Manea, in the Isle of Ely, in the County of Cambridge, the property of the late Henry Gascoyne, Esq., of Benwick, in the said Isle of Ely and County of Cambridge, deceased, and now in the occupation of Mr. John Gascoyne.

Printed particulars and conditions of sale may be had gratis in London, of Messrs. HEUSMAN & NICHOLSON, Solicitors, of No. 25, College Hill, Cannon-street West; of Messrs. MAKINSON & CARPENTER, Solicitors, 3, Elm Court, Temple; and of Mr. H. H. LAURENCE, Solicitor, of No. 1, Verulam-buildings, Gray's-inn; and in the Country of Mr. WILLIAM L. OLLARD, Solicitor, of Upwell, near Wisbeach, in the county of Cambridge; of Mr. MALBON FOSBROKE, Solicitor, of St. Ives, in the county of Huntingdon; of Mr. WILLIAM ELWORTHY, of Upwell aforesaid, Auctioneer, at the White Lion Hotel, Wisbeach, aforesaid; the Swan Inn, Outwell; the Lamb and Flag Inn, Welney; and at the Griffin Inn, March.

Dated this 4th day of July, 1860.

FREDERICK E. EDWARDS,
Chief Clerk.

TO BE SOLD, pursuant to an Order of the High Court of Chancery, made in the matter and cause Re John Parish Cook Bradford *v.* Stephens, and with the approbation of the Master of the Rolls, the Judge to whose Court the said matter and cause is attached, in One Lot, or if not so sold, in Three Lots, by Messrs. BEADEL & SONS, at the AUCTION MART, Bartholomew-lane, in the City of London, on TUESDAY, JULY 17, 1860 (previously advertised for the 10th inst.), at TWELVE for ONE o'clock, the following valuable and extensive FREEHOLD BUSINESS PREMISES, land tax redeemed, situate in and near Bow-lane, in the parish of St. Mary-le-bow, in the heart of the city.

Lot 1 will comprise the capital dwelling house, warehouses, and show rooms, known as No. 49, Bow-lane, let under an agreement for a lease expiring at Michaelmas, 1860, to Messrs. Coupland, at a rent of £120 per annum, the tenants paying all outgoings and doing repairs.

Lot 2. The substantially erected and extensive printing offices and premises, with large yard approached by a passage from Bow-lane, and in the rear of Nos. 49, 50, and 51, in that street; let to Messrs. Collis, on a lease expiring Michaelmas, 1863, at a rent of £90 per annum, the tenant paying outgoings and repairing.

Lot 3. The valuable freehold warehouse and premises adjoining Lot 2, approached by the before-mentioned passage from Bow-lane, and let to Mr. Griffiths, Fringe Manufacturer, on a yearly tenancy, at a rent of £40 per annum.

May be viewed by permission of the tenants, and particulars and conditions of sale, with plans, obtained of Messrs. CHURCH, LANGDALE, & PRIOR, 38, Southampton-buildings, Chancery-lane, W.C.; of Messrs. CLAYTON, COOKSON, & WAINWRIGHT, 6, New-square, Lincoln's-inn, W.C.; at the Mart; and of Messrs. BEADEL & SONS, 25, Gresham-street, London, E.C., and Chelmsford, Essex.

Important Freehold Estates in ELM and UPWELL, in the Isle of Ely, Cambridgeshire.

MR. JONAS PAXTON is directed by the Proprietors to Offer for SALE, by PUBLIC AUCTION, on TUESDAY, the 24th of JULY next, at the AUCTION MART, Bartholomew Lane, London.

THE COLDHAM ESTATE,

Containing 2,245 acres of prime Arable and Grazing Land, producing a net rental of nearly £4,000 per annum, and comprising the following Farms.

IN ELM.

The Coldham Hall Farm,	of 660a., in the occupation of Mr. John Brown.
Stags Holt Farm,	of 505a., in the occupation of Mr. Wm. Little.
Maltmas House Farm,	of 340a., in the occupation of Mr. W. Nicholson.
Friday Bridge Farm,	of 300a., in the occupation of Mr. S. S. Sculthorpe.
Coldham Road Farm,	of 320a., in the occupation of Mr. Henry Johnson.

IN UPWELL.

The River Side Farm	of 120a., in the occupation of Mr. John Ream.

The several residences and farm buildings are of a class suited to the occupations.

The estate has independent internal means of drainage into the river Nene, and is rendered perfect by the recent works effected by the Middle Level Drainage Commissioners. It has never before been in the market, is tenanted by most substantial occupiers, has long been considered as unequalled by any other lands of the district, and affords an opportunity rarely to be met with for first class investments of capital.

Particulars with plans and conditions of sale may be had of THOMAS TUSTING, Esq., Land Agent, March; Messrs. GARRARD & JAMES, Solicitors, 13, Suffolk-street, Pall Mall East, London, S. W.; of the Auctioneer, Mr. JONAS PAXTON, Bicester, Oxon; and at the AUCTION MART.

RUPTURES.—BY ROYAL LETTERS PATENT.

WHITE'S MOC-MAIN LEVER TRUSS is allowed by upwards of 200 Medical Gentlemen to be the most effective invention in the curative treatment of HERNIA. The use of a steel spring, so hurtful in its effects, is here avoided; a soft bandage being worn round the body, while the requisite resisting power is supplied by the MOC-MAIN PAD and PATENT LEVER, fitting with so much ease and closeness that it cannot be detected, and may be worn during sleep. A descriptive circular may be had, and the Truss (which cannot fail to fit) forwarded by post, on the circumference of the body, two inches below the hips, being sent to the Manufacturer.

Mr. JOHN WHITE, 228, PICCADILLY, LONDON.

Price of a Single Truss, 16s., 21s., 26s. 6d., and 31s. 6d. Postage, 1s.
" Double Truss, 31s. 6d., 42s. and 52s. 6d. Postage, 1s. 8d.
" an Umbilical Truss, 42s. and 52s. 6d. Postage, 1s. 10d.

Post-office Orders to be made payable to JOHN WHITE, Post-office, Piccadilly.

ELASTIC STOCKINGS, KNEE-CAPS, &c., for VARICOSE VEINS, and all cases of WEAKNESS and SWELLING of the LEGS, SPRAINS, &c. They are porous, light in texture, and inexpensive, and are drawn on like an ordinary stocking. Price, from 7s. 6d. to 16s. each; postage, 6d.

JOHN WHITE, MANUFACTURER, 228, PICCADILLY, LONDON.

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THE SOLICITORS' JOURNAL.

LONDON, JULY 14, 1860.

CURRENT TOPICS.

About one-fourth of the clauses in the Bankruptcy and Insolvency Bill have been discussed in committee of the House of Commons; but except upon the subject of the salaries of County Court Judges, and of the compensations to be paid to retiring officials, not much that is interesting to lawyers has occurred during the recent discussion. All the salient points of the Bill have already been so fully considered and debated, that Parliament appears to have come to the conclusion that little more need be said upon either the principles or the details involved in the measure. The 514th clause, to which we have frequently referred of late, and which Mr. Ford's pamphlet has so forcibly brought under the notice of both branches of the profession and the public, stands so near the conclusion of the Bill, that there is some risk of the important question involved in it being slurred over at the last moment, if the subject is not kept well before the attention of Parliament. Last week we published an important communication from a learned Commissioner in Bankruptcy, who entirely concurred with Mr. Ford in thinking "that the public interests require that solicitors should not be deprived of the right of audience which they have long enjoyed" in that court. Since then, another learned Commissioner of the court, in a letter to Mr. Ford, on the subject of his brochure, says:—

> In a case which involves complicated commercial matters, there is manifest advantage, that the solicitor should continue to conduct the inquiry in its later stage. He has mastered all parts and bearings of a large subject. To transfer that knowledge to a new advocate for a particular occasion by means of a brief is almost impossible; and, if effected, the labour and expense are very great. The same man, who as solicitor has explored such a case in all its branches during the working of a bankruptcy, is sometimes the only man competent to apply the facts on the occasion when a final judgment is to be pronounced.

It is impossible that Parliament can insist upon passing the clause in question in the face of such testimony as this, completely coinciding as it does with the experience and opinion of the entire mercantile community. It is, certainly, no slight argument in favour of the continuance, unimpaired and intact, of the right of solicitors to conduct their clients' bankruptcy cases in open court, that judges of that court, of the greatest experience, should express themselves as the two learned Commissioners whose letters we have quoted have done. We believe the opinions expressed by them are entertained by the learned Commissioners generally, as well as by every body else who is competent to speak upon the question. Owing to the kindness of Mr. Ford, who deserves the thanks of the profession for his exertions in this matter, we are enabled to present our readers with a communication to that gentleman which has been elicited by the publication of his pamphlet. Mr. Commissioner Goulburn writes as follows:—

> Court of Bankruptcy, July 9, 1860.
>
> Dear Sir,—I beg to thank you very much for the pamphlet you have sent to me on the subject of the Bill now going through the House of Commons on the Bankrupt and Insolvent Laws. I have no hesitation in saying that the view you take of continuing to suitors in the court the right to have their cases carried through every stage of procedure by attorneys, without the necessity of employing counsel, has now my entire concurrence.
>
> I use the word "*now*" because in the earlier days of my practice as a Commissioner of Bankrupts, extending over a period of nearly 30 years (12 years antecedent and 18 subsequent to the establishment of the Court of Bankruptcy as a Court), my views on that subject were different from those which every day's experience now forces me to entertain. I am persuaded that if suitors be compelled in every insolvent estate in all matters brought before the Court when sitting in public to retain counsel, there will be in very many cases not merely grievous injustice to creditor as well as debtor, but frequently an absolute denial of justice.
>
> First, as to the *expense*, the grievance really most justly complained of in the present administration of the law, it will be increased in most cases twofold, in many cases much more; and this in matters where the discussion commonly commences with a fund sadly deficient to pay the claimants any reasonable proportion of their claims upon it. The business, moreover, is frequently, I may say commonly, of a character so colloquial as to make the employment of counsel in the way of instructing them a matter well nigh impracticable. In the case of a choice of assignees, for example, where we sometimes see a counsel instructed to watch generally the proofs, and object to or support proofs tendered, as the wishes of his client may direct him to do, we commonly find the barrister (instructed almost at the moment upon a variety of matters involving many controverted facts and much complication of figures) very incompetent to deal with an attorney who has been familiar with the details of the case from their commencement; and much of confusion, delay, and expense are in consequence incurred.
>
> In a contested choice, under the Bill as it stands at present, I do not well see *when* the choice can be determined. Suppose a case in which, say, half a dozen proofs are tendered before the registrar, and points of law and facts raised. From his decision on appeal the attorney who, in chambers before the registrar, will commonly be heard, cannot follow the case into court, but must forthwith instruct and deliver briefs to counsel; and this in as many different cases as objections may be made to proofs: cases, as all experience shows, extremely multifarious, and always fought out with the greatest possible tenacity. Every day the chief judge will have to try appeals from the registrar with the assistance only of counsel *mis*instructed, perhaps with *no* instruction but what a few moments of whisper in a corner of the court will afford time for. I might say much more upon this subject, but you have said so much and so well in your pamphlet that I will not do more than express my concurrence in the view you take of the matter; and I beg to remain, dear sir, yours faithfully,
>
> EDWARD GOULBURN.
>
> William Ford, Esq., solicitor, (Messrs. Rogerson & Ford).

Inasmuch as whatever is to be done this session by Parliament must be done within the next two or three weeks, it will be necessary for solicitors to take immediate action to prevent the 514th clause of the Bill from becoming law. Sir Richard Bethell has always shown a disposition to receive information from all quarters, in reference to this measure; and it would certainly be advisable that some deputation of solicitors, composed of those who are not only conversant with bankruptcy business, but also of those who may be taken to represent the profession, should wait upon the Attorney-General, for the purpose of proving to him the very injurious consequences that must follow from any enactment which would have the effect of compelling clients to employ counsel in all cases before the new chief judge in bankruptcy.

In our Parliamentary intelligence will be found a report of the conversation which took place in the House of Lords, on Monday evening last, on the order for going into committee on the Law and Equity Bill. It appears that the select committee to which the Bill was referred, struck out the clauses empowering courts of common law to grant relief in cases of forfeiture for breaches of covenant. The Bill, as it now stands, was passed through committee of the House of Lords, on Thursday night, and it is not impossible that, so far as it is merely a supplement to the Common Law Procedure Acts of 1852 and 1854, it may become law before this session closes.

Two years ago, Sir John Coleridge, Sir W. P. Wood, V. C., Sir G. C. Lewis, Lord Wynford, Dr. Robert Phillimore, and Mr. John Young, were appointed commissioners to inquire into the expediency of bringing together into one place or neighbourhood, all the superior courts of law and equity, the Probate and Divorce Courts, and the Court of Admiralty, and the various offices belonging to the same; as well as into the means which exist or might be supplied for the erection of suitable buildings for carrying out this object. Their report, which is evidently the result of diligent inquiry and anxious consideration, will be found in our columns.

The conclusions at which the commissioners have arrived, will be entirely satisfactory, not only to the profession, but to all who are interested in the administration of our law. As soon as our readers have had the opportunity of reading the report we shall have some further observations to offer on the subject.

We are compelled to postpone for a week, the insertion of some articles.

PUBLIC PROSECUTORS.

It has often been remarked, and the observation, we believe, is literally true, that England is the only civilised country in the world which has no public prosecutor. Not only in America and in France are there public officers specially appointed for the prosecution of offenders; but even in the sister kingdoms of Scotland and Ireland, a similar system has long prevailed. Various attempts have been made of recent years, to remedy this notorious defect in our criminal jurisprudence; but these have all failed. The difficulties which surround the subject have hitherto, in short, baffled the ingenuity of our legislators; and we fear they will continue to do so for some time to come. In the meantime, we propose to enquire into the nature of the evil, which it has been found so difficult to cure, and also to examine the different plans that have from time to time been brought forward with a view to its removal.

And we would observe at the outset, that although England is at present unprovided with any public officer specially charged with the prosecution of criminals, this was not the case at an earlier period of her history. Sir Henry Spelman, citing the authority of Bracton, was of opinion that when the latter composed his work in the reign of Henry III., there was a king's serjeant in each county, whose duty it was to bring offenders to justice.* And in the proclamations made at assizes to this day, before any criminal trial begins, this officer still continues to be named, although he has long ceased to exist. It also clearly appears, from other passages in Bracton,† that it was anciently the duty of the coroner to inquire into cases of rape and of wounding, as well as of homicide; and that it seems to have been the right of aggrieved parties in such cases to lay their complaints either before him or before the king's serjeant. It is a curious fact that, in the earliest systematic treatise upon English law, we should thus find undoubted proof that the jurisprudence of the thirteenth century was not open to a reproach to which that of the nineteenth is certainly exposed. When Bracton wrote, it was the business of public officers, specially appointed for the purpose, to take cognizance of all crimes committed within their respective districts. At the present day no such officers exist. It is everybody's right, but nobody's duty, to prosecute offenders. The result of this system, or rather want of system, is, that on the one hand frivolous and malicious prosecutions are encouraged, while, on the other, there is no proper security that serious crimes shall be prosecuted at all. Such, indeed, is the vigilance of the press at the present day, that in towns, and in populous districts, offences of the graver kind are not likely to be lost sight of; but it is otherwise in remote and thinly inhabited localities, where, as we shall have occasion to show, the want of a public prosecutor is sometimes found to be a serious evil. But, before proceeding to consider the consequences of our system, it will be well to take a glance at the very different mode of procedure adopted, both in Scotland and in Ireland, for the detection and punishment of crime.

In Scotland, in addition to the Lord Advocate and the Solicitor-General, there are four Crown counsel, named Advocate Deputes, whose special duty it is as well to advise in all criminal cases as to conduct them in court. These Deputes, who are changed with each change of Ministry, receive a salary of £500 a year each as a remuneration both for their services in advising and on circuit, where one of them appears as prosecutor in every case. There is also a Crown agent or attorney resident in Edinburgh, who is appointed by the Lord Advocate, and is also changed with each change of Ministry, who is the channel of communication between the Advocate Deputes and the Procurators Fiscal, of whom there is one for each county. These latter officers are generally solicitors of the best standing in their respective districts; and they are not debarred from private practice by their acceptance of the post in question, which is a permanent and not a political one. The salary of each Procurator Fiscal averages about £400 a year. It is his duty, whenever he receives information of a crime having been committed, to make immediate inquiry on the spot. If any person is suspected, he takes the necessary steps for his apprehension; he also takes down privately in writing, the evidence of any witnesses who can speak to the facts, and with them he attends at the preliminary examination of the accused before the sheriff. If the case is one of any difficulty, the evidence or precognitions of the witnesses, to use the proper phrase, are transmitted to the Crown agent in Edinburgh, who lays them before the Lord Advocate, or one of his deputes, and, according to their instructions, the accused is either liberated, or sent for trial before the sheriff or to the assizes, as the case may be. Such is an outline of the system of public prosecution adopted in Scotland. According to the evidence of the present Lord Advocate, taken before the committee of the House of Commons, which sat in 1855, the system works well, and gives great satisfaction to the public. "I can say from my own experience," he remarked, "that it operates fully as much in the protection of innocent persons against unfounded accusations, as it does in the detection of crime; and for my own part, I think that the want of publicity in the first examinations, if you have, as we have, a sufficient check in the superintendence, such as I have described, tends very much indeed to the detection of the guilty." We may add, that notwithstanding the ample provision thus made in Scotland for the prosecution of offenders, any private individual may undertake this duty if he thinks the authorities are at fault in declining to proceed. But such cases are remarkably rare; the Lord Advocate said that only one had occurred in his recollection.

While we are upon the subject of criminal prosecutions in Scotland, we may observe that there is an important difference in the mode in which cases are conducted in court in that country and in this. Here the counsel for the prosecution begins by addressing the Court and jury for the Crown, stating the nature of the charge against the prisoner, and the evidence which he proposes to adduce in its support. The witnesses are then examined; and if the prisoner or his counsel call witnesses for the defence, the counsel for the prosecution replies upon the whole case. In Scotland, the pro-

* See the judgment of Sir John Eardley Wilmot in the case of John Wilkes, 19 State Trials, p. 1129.

† See Bracton, lib. 3, cap. 7. Ibid, cap. 8.

ceedings commence by the examination of the witnesses for the Crown; after which, if there are no witnesses for the defence, the prosecuting counsel makes his speech upon the case, as it has been presented to the Court. The counsel for the defence then addresses the Court in his turn. If he calls witnesses, he does so immediately after those for the prosecution have been examined; the prosecuting counsel then makes his speech upon the whole case, and the prisoner's counsel replies. The latter, therefore, has always the last word—an important advantage in all cases where there is anything like a conflict of testimony, or, indeed, where there is any point to be urged in favour of the prisoner.

In Ireland the prosecution of criminals is conducted on an equally systematic plan. The Attorney-General is there at the head of the department. Under him, but appointed by the Lord-Lieutenant, and holding office during good behaviour, there are a certain number of Crown solicitors. But it does not appear to be the duty of those officers, as it is of the Procurators Fiscal in Scotland, to take the initiative in criminal proceedings. They do not in fact interfere until the informations are sent to them by the magistrates. These are afterwards submitted by the Crown solicitors to the Attorney-General, who decides whether they are to be prosecuted, and gives any particular directions he may think fit. It is the duty of the Crown solicitor to prepare the briefs and to deliver them to the Crown counsel at the assizes. Of these there are two or more on every circuit who conduct the whole of the prosecutions. Then Crown counsel are not changed as is the case in Scotland with each change of Ministry; the Attorney-General for the time being only fills up each vacancy as it occurs. The Crown counsel are not paid by salaries, but by fees on each brief as in civil cases.

At sessions, which barristers in Ireland do not attend, criminal cases are conducted by an officer called the Sessional Prosecutor, who is a local solicitor. These officers are paid by salary, but the remuneration which they receive seems to be very inadequate to the important duties which they perform. The late Lord Chancellor of Ireland, Mr. Napier, who was examined before Mr. Phillimore's committee, expressed a strong opinion upon this point; and whether any change has since taken place, we are not aware. But this is only a matter of detail. Upon the whole, the system of public prosecution established in Ireland, appears to give general satisfaction.

In England, as every one knows, there are neither Crown counsel nor Crown solicitors. The Attorney-General, indeed, has the privilege, *ex officio*, of prosecuting in any case; and he has also the privilege of stopping any prosecution by entering a *nolle prosequi*. But he only exercises these powers upon cases of special importance. The mode in which prosecutions are generally conducted in this country, and the evils attendant upon it, we shall consider upon a future occasion.

CONCENTRATION OF THE SUPERIOR COURTS AND OFFICES.

REPORT.

We, your Majesty's Commissioners for the purpose of inquiring into the expediency of bringing together into one place or neighbourhood all the superior courts of law and equity, the Probate and Divorce Courts, and the Court of Admiralty, and the various offices belonging to the same, and into the means which exist, or may be supplied, for providing a site or sites, and for erecting suitable buildings for carrying out this object, humbly certify to your Majesty that we have proceeded in the discharge of the duty imposed upon us, and are now prepared to submit to your Majesty the conclusions to which we have been led, and the recommendations consequent thereon, which we have agreed to as proper to be made.

1. The inquiry which it has been our duty to make obviously divides itself into three heads; the expediency of the concentration into one place or neighbourhood; the selection of a site or sites; and the suggestion of the pecuniary means for procuring it or them, and for erecting suitable buildings thereon.

2. We have proceeded accordingly; upon all these branches we have examined many witnesses, and availed ourselves of inquiries already made under Parliamentary authority, or otherwise, on the same or closely connected subjects; we have also called for and been supplied with returns from different offices; and upon some parts of our inquiry we have all of us, in a greater or less degree, had the benefit of personal experience, which has enabled us, we trust, more correctly to appreciate the evidence and the information derived from other sources.

3. Upon the desirableness of such a concentration as your Majesty's commission describes, we have had no division of opinion, or difficulty in arriving at our conclusion. The evidence of witnesses entitled to the greatest consideration, personally, and from their means of acquiring knowledge on the subject, may be stated as being all on one side. In speaking of concentration, we find it necessary to include, not merely that of courts with courts, but of courts with their offices, and, in a larger sense, with the chambers of the bar, and the offices of the attornies, and also the requisite of sufficient and well arranged accommodation, for the judges, the officers, the bar, the attornies, the jurymen, and the public; meaning by the latter term, and especially with regard to the courts themselves, the suitors, the witnesses, and such a number of persons coming either to learn, or merely to satisfy a reasonable curiosity and interest, as the indispensable character of open courts requires to be provided for. The judges cannot discharge all branches of their duties without private rooms, in addition and attached to their courts; and so large, and such an important portion of their business, in all the branches of the law, is transacted at chambers, that rooms specially adapted for the purpose, and of considerable size, are necessary for these also. The chambers, indeed, are but informal courts; great numbers of persons are in attendance there at the same time, and beyond these a considerable staff of clerks is permanently occupied, and many books and papers are constantly kept there. Every court, too, has various offices attached to it, in which its judgments, decrees, and orders, are reduced into form, and from which they issue to the parties interested—in which a variety of documents are from time to time filed—in which, also, references from the court to its masters are conducted: all these purposes require considerable space. The barristers, and attornies and solicitors, must have, not merely accommodation for the conduct of causes in court, but rooms near to the courts in which they may, at intervals, meet and consult. For the jurymen, those who are actually impannelled, and those in attendance, as well as for witnesses, retiring rooms and waiting rooms are a matter of necessity; and it is essential to the satisfactory administration of justice that the public should have convenient access to the courts, and suitable sitting room within them.

4. But of all these parties none is ultimately so largely interested as the public itself, for which alone, indeed, judges and officers, barristers and attornies, courts and offices are provided. Of all the elements of expense in litigation there is none more important than time; of all the sources of vexation attendant on it, there is none more bitter than unnecessary delay. If court be separated from court, and courts be at a distance from their offices; if these last be separated from each other; if both be at a distance from the chambers of barristers and the offices of attornies and solicitors; it is obvious that time must be lost in the transaction of business, in every stage of it, by every one concerned in it. The superior courts of law and equity are very commonly sitting in eleven places, and often in more, at the same hour; and single judges are frequently required to be sitting in two places at different hours on the same day. While the courts themselves are also still sitting, the exigencies of business will often make it the duty of the same barristers, and of the same attornies and solicitors, to be in attendance on more than one cause in different branches even of the same court, it may be even in the same cause, on the same day, and at the same, or nearly the same times. It must be obvious that the only mode by which the inconveniences, the adjournments, and delays, which all this implies, can be remedied or reduced within a bearable amount, is by a close approximation and a judicious arrangement of the courts and their offices in a well chosen site. And it must not be overlooked, that the tendency to what is called a fusion of law and equity, or more properly an attribution to the courts of law and equity respectively, of some of the functions and powers heretofore belonging only to each, brings with it an increased necessity for such an approximation as we have spoken of. For, although it may not be possible, that in two systems so highly artificial,

and, at the same time, so extensive, the same practitioners should be so soundly and thoroughly instructed as to practise indifferently and with equal advantages in the courts of each; yet it is both possible and desirable, that the advocates in each should be generally, and not merely superficially, informed in the law and practice of both; and to this a ready communication between the practitioners will contribute much. The attornies, too, will find it much more easy to attend in person, and not by their clerks, when different causes come on for hearing in different courts on the same day. Meantime, as regards the bar, what has been done in this direction already has had the effect of calling barristers frequently from the common law courts to the courts of equity, and conversely. It is of frequent occurrence now for common lawyers to conduct the oral examination of witnesses in equity, and for the Chancery lawyer to sustain or resist an application for an injunction or discovery, in a court of common law.

5. It may be suggested that much of the inconvenience now existing would cease, if all practitioners were to confine their attendance more strictly to some particular court or courts. It is not within our province to go into the large question which this raises further than affects our present inquiry; it may be that individual practitioners, from whatever motive or under whatever necessity, accept business more in amount, and more widely scattered than under the happiest arrangements of courts they can properly perform; but the difficulties of avoiding or preventing this are greater than is commonly supposed,—for junior barristers we believe them to be insuperable. In the earlier stages of litigation, in which junior barristers are most commonly engaged, it is often not known in what court the cause will be heard; and it would be most seriously prejudicial to the client to be deprived in the later stages of the cause of the counsel whom he had consulted and on whose advice he had acted in its commencement. We are, of course, no advocates for an abuse, but we are certain that no improvement which can be anticipated in this respect would have the effect of removing the evils arising from want of concentration.

6. Your Majesty has directed us to consider the propriety of concentration, not merely of the superior courts of law and equity, but also, with them, of the Probate and Divorce Courts, and the Court of Admiralty. In some respects these might have seemed, especially the latter, to come under different considerations from the courts of law and equity, but for changes which have recently taken place. The business of the courts which the Probate and Divorce Courts now represent, and of the Admiralty, was transacted by advocates and proctors, forming a distinct branch of the profession from the general body of barristers and attornies; their chambers, and the offices and depositories of the courts, were in convenient nearness to the courts themselves; it was, for the Probate Court, desirable that it should not be removed far from the Bank, and for the Admiralty that it should be near to the places of business of the merchants, mariners, and shipowners, who had principally occasion to resort to it. Nearly all these special circumstances have now ceased to exist. Doctors' Commons has been broken up; the Courts sit at Westminster; the practice is thrown open to the whole profession in both branches without distinction; the Depository of the Probate Court is so entirely inadequate that a new one on a very extended scale must be constructed; and if the site which we are prepared to recommend be adopted, the Probate Court and its Depository will be brought much nearer to Somerset House than at present, which we are assured will be more than a compensation for the removal to a greater distance from the Bank. It is obvious, however, that a considerable period of time must elapse before the new building for this new Depository can be finished, and we do not therefore see any reason to believe that the Act of Parliament passed during the last session empowering the Government to purchase the site occupied by the College of Advocates, need interpose any obstacle to the execution of the design which we are prepared to recommend; and the Court of Admiralty will be nearer to the city than it is at present, since its removal to Westminster Hall. We should certainly be desirous of making the concentration we recommend as comprehensive as possible, much of its advantage depending on its completeness; but, apart from this, we think that, with the present functions of these Courts, and in the altered state of the profession in both branches, there would be a manifest inconvenience in omitting them.

7. The present state of the courts and offices is nearly as follows. Practically, the courts of equity have ceased to sit at Westminster, and now sit in convenient neighbourhood to each other in Lincoln's-inn, with the exception of the Rolls, the court for which is in Chancery-lane, at a short distance only. Their offices and chambers, fourteen in number, are scattered about in Chancery-lane, Quality-court, the Rolls-yard, Lincoln's-inn, and Staple-inn. To these must be added the offices of the Master in Lunacy in Lincoln's-inn-fields; of the Registrar in Lunacy, and that of the Bankrupt Appeals in Quality-court; and the Patent Office in Southampton-buildings. The courts of common law sit in Westminster Hall, conveniently near to each other: but the Judges' chambers are in the Rolls-gardens; the masters' offices of the Queen's Bench are in King's-bench-walk and Mitre-court-buildings in the Temple; those of the Common Pleas, in Serjeant's-inn and Chancery-lane; those of the Exchequer, in Stone-buildings, Lincoln's-inn; that of the Queen's Remembrancer, in Chancery-lane; that of the Registrar of Acknowledgments of Married Women, in Lancaster-place; that of the Registry of Judgments, in Serjeant's-inn; that of the Associates and Marshals, in Chancery-lane.

8. The judge of the probate and divorce courts has no court of his own, but sits for the present, by permission of the Lord Chancellor, in the Lord Chancellor's court in Westminster Hall; his registrar's office, however, and the depository of wills are still remaining in Doctors'-commons. The judge of the High Court of Admiralty is also without any court of his own; he has been used to sit, by permission of the College of Advocates in their Hall, and now sits by permission in the Court of the Master of the Rolls, at Westminster; but the office of his registrar, and that of the admiralty marshals, are still in Doctors'-commons.

9. Substantially, therefore, the courts to which our inquiry extends are in two divisions; Lincoln's-inn and its neighbourhood for the Equity branch, Westminster Hall for the Common Law, Probate and Divorce, and High Court of Admiralty. The offices of the former are scattered about at no great distance from Lincoln's-inn; the offices of the latter are separated from them by the whole distance from Westminster Hall to the Temple, Chancery-lane, the higher parts of Lincoln's-inn, and Doctors'-commons.

10. This sketch, however, will be imperfect without adding that the barristers who practise in the courts of equity for the most part have their chambers situated with considerable convenience in and about Lincoln's-inn; but those who practise in the courts of common law for the most part have their chambers in or about the Temple. Of the London attornies more than two-thirds, and among them probably a much larger proportion of those who are agents of country attornies, have their offices in what some of our witnesses designated as the law district, meaning thereby the Inns of Court, and the streets and Inns of Chancery in the neighbourhood.

11. We still, however, have not the whole case upon the practical propriety of concentration before us, until we have seen whether the several courts, and their several offices, considered without reference to it, are sufficient and convenient, and suitable for their respective purposes. Now, with respect to the equity courts, we see no reason to doubt that the Lord Chancellor, the Lords Justices, the Master of the Rolls, and the senior Vice-Chancellor are accommodated with reasonable convenience, and with some regard to the dignity of their stations; as to these, it is only to be remarked that they sit, not as might be expected, in public buildings, the property of the nation, but, with the exception of the Master of the Rolls, as tenants at most for years, and, as regards the highest of them, the Lord Chancellor and Lords Justices, as tenants at will of the benchers of Lincoln's-inn. But the courts of the two remaining Vice-Chancellors are utterly unfit for their purpose; in structure, size, proportion, ventilation, and arrangement, it is difficult to speak of them in too strong terms of disapproval. They are so unfit as to make it necessary for us to report to your Majesty upon the urgent propriety of some immediate measure for the better accommodation of these two judges. What we have said of their courts applies with equal, if not greater, force to their chambers; it almost requires ocular inspection to conceive fully how insufficient, inconvenient, and unwholesome they are. The only explanation which can be offered for this is, that they were hastily provided for a temporary accommodation, which it was assumed would be very soon replaced by something permanent, and on a proper scale; and it is certainly high time that the just claims of these judges, and not less those of their clerks, and of the public, in these respects should be attended to.

It is right to state that this particular branch of our subject had been under the consideration of the then Lord Chancellor (Lord Chelmsford) and other equity judges, as well as of the Honourable Society of Lincoln's-inn, before the date of our

commission; and there has been laid before us a matured scheme for the purpose of providing additional courts and chambers within the limits of Lincoln's-inn. It is no part of our duty to enter into any minute consideration of the details of this scheme—the proposed buildings, we are informed, would satisfy the judges more immediately concerned; and we have no reason to doubt that, in respect of accommodation, they would meet the requirements of the public. This scheme, however, is not a temporary one, nor can it be carried into effect except by a very large outlay of money—it is founded on the principle of making permanent the present separation of the equity courts from those of the common law, and all other branches of the administration of justice. The scheme is to be effected by enabling the society of Lincoln's-inn to raise a fund of £100,000, or more if necessary; the interest on £100,000 at 4 per cent. being secured by a perpetual charge of £4,000 on the income of one of the funds with which we propose to deal. The principle on which this arrangement proceeded was, that an annual sum, exceeding £2,000, is already paid out of the fund in question for the rent of the Vice-Chancellor's chambers, and for the two Vice-Chancellor's courts; and it was conceived that the increased accommodation would justify the increased rent. The society, in the proposed scheme, took on itself the responsibility of any excess in the outlay beyond £100,000. It is, therefore, inconsistent with the recommendations which we think it our duty to make—and not only so, but it will, if carried into effect, certainly postpone for an indefinite period, if not practically extinguish, all hope of the general concentration to which we attach so much importance. We should have been much pleased if we had found it possible to provide, for a time, courts and chambers in Lincoln's-inn substantially as convenient and suitable for their purposes, in buildings however divested of architectural dignity and ornament; but the want of space there will make even this impossible, without calling on the society for sacrifices of property in chambers, which it would be unreasonable to ask of them for a merely temporary purpose. We are compelled, therefore, to limit ourselves to recommending alterations in the present courts, which we are assured will have the effect of removing defects in the ventilation, and of preventing them from being either distressingly hot and close, or cold, at any period of the year. This we think should be done, with the permission of the society, at the public expense. In respect to the chambers, it would not be right to suggest any measures specifically, the matter being so much in the discretion of the society, and the practicability of any suggestion depending much on local circumstances, not within our knowledge: but the benchers will no doubt feel anxious, in the spirit which has always actuated them, to meet, so far as they are able, the just requirements of the public. Whether this can be best effected by the granting of other or additional chambers, or by a new arrangement of those at present devoted to the purpose, they will be the best judges; but it seems to us very desirable, and we can hardly suppose it to be impossible, to provide each Vice-Chancellor, and each of his Chief Clerks, with one spacious room for transacting public business; a room of proper size for solicitors and parties in attendance; and other rooms for the accommodation of the junior clerks, and the custody of the numerous books and papers from time to time placed there during the pendency of causes. Whatever alterations the fulfilment of these objects may require should be made at the expense of the public, and when the temporary want ceases, the expense of making the chambers fit for their original purpose should be borne in the same way. The interests of the society should not suffer by thus supplying a public want; though it has, no doubt, advanced considerably in character and prosperity, by having become, as it were, the home of our courts of equity. The honourable connexion so formed has entailed on it, to some extent, the liability to meet such a call on it as the present, and we have no doubt that, if that connexion should be terminated by the general concentration we recommend being carried into effect, it will receive, in its interest at least, a full compensation, by the increased demand for chambers from practitioners, who may be reasonably expected to cluster round the courts in its immediate neighbourhood from the city and remoter parts of London.

12. Passing from the courts of equity to those of common law, we find that for the greater part of every term each court, beside sitting in Banc, has a single judge sitting at Nisi Prius at Westminster; and that after term each court has very commonly two separate courts of Nisi Prius sitting at the same time. Very commonly, too, each court, in order to dispose of arrears of the preceding term, sits in Banc after each term for a number of days, varying according to the requirements of business. These arrangements, in excess of the former sittings in Banc and at Nisi Prius, have become necessary, partly from the increase of business in the courts, partly from the effect of modern alterations by Parliament in the law and in legal procedure. Nor is there any reason to believe that the necessity for them will be temporary; rather it may be expected that the steady and rapid advance of the country in all material respects may make a still increased amount of accommodation desirable. Beyond all these, the sittings of the Courts of Error, and of the Court of Criminal Appeal, require, the first of them always, and the latter not unfrequently, a spacious court for several days after each term.

13. In order to supply these wants, the least that is required for each court is to provide it with two halls for the public administration of justice; the Courts of Error and Criminal Appeal require another spacious hall, and to each of these seven halls should be attached a convenient robing and withdrawing room for the judges. Even with these, occasional inconvenience might occur for want of room; it should be remembered that the judges have not the whole vacation after term at their disposal for holding their sittings; the Post Terminal Banc sittings, the sittings in error, and in the Court of Criminal Appeal, cannot be held, after the Nisi Prius sittings have ended at Westminster, and commenced at Guildhall, without the greatest inconvenience to the bar, and risk of great injustice and reasonable dissatisfaction to the suitor. We state this amount of requirement, not as all that might be desirable, but as that which, by arrangement among the judges, and with a view to the strictest economy, might be made tolerably well to serve the purpose. We say nothing, at present, of the offices, which ought to be attached to each court; but it would be indispensable that there should be provided, simultaneously with the courts, robing rooms for the bar, an adequate number of consultation rooms, and a reading-room; waiting-rooms for attornies and for jurymen in attendance, a withdrawing-room for the jury impanelled to consider of their verdict, and two waiting-rooms for the witnesses in attendance for the respective parties in the cause before the Court.

14. These being the necessary requirements, on the most limited scale, we are now to state what at present exists to satisfy them. The Court of Queen's Bench has its principal court, and a small one, intended originally for the taking of bail upon mesne process, and called the Bail Court; this latter court is, in respect of size, arrangement, lighting, and ventilation, wholly unsuited for trials by jury; so that until the necessity of providing for the Courts of Probate and Divorce, and the High Court of Admiralty, it had been usual for the judge to procure the permission of the Lord Chancellor to sit in his court, or some other chancery court. The judges have a robing and retiring room, in which they also hear summonses occasionally, and a room for their clerks in attendance on them. The Court of Common Pleas has but one court, which was built at a time when the serjeants alone had audience in it, and the business, together with the attendance of the bar and the public, was very limited. It is now much too small for the convenient discharge of the business before the Court. It has no Second or Nisi Prius court; the Nisi Prius sittings in term have been held at the Westminster Sessions House, or in a Parliamentary committee room, or in a chancery court, borrowed for the purpose. The Court of Exchequer has one large court and for its Nisi Prius sittings in term, the Court of Exchequer Chamber, a court wholly inadequate in size for the purpose, and with its interior arrangements wholly unsuited to it; indeed, for every purpose to which it is applied, it is lamentably inconvenient. In respect of retiring rooms for the judges, and rooms for the clerks, these two courts are nearly on a footing with the Court of Queen's Bench, and all these are miserably unprovided in respect of accommodation for the bar, the attornies, the jurymen, the witnesses, and the suitors.

15. As regards the Courts of Divorce and Probate, and the High Court of Admiralty, we have already stated the temporary and very insufficient and precarious provision made for them.

16. It is clear upon this statement that, apart from the question of concentration, and even supposing that in point of space room could be found at Lincoln's-inn for the accommodation of the courts of equity and their offices, and for the common law and other courts with their offices at Westminster, it would be necessary to incur very considerable expense in both places, in order to give them respectively proper accommodation. It is difficult to convey in statement an adequate idea of the daily mischief which results from the scanty and inconvenient accommodation which the country at present affords for the great object of the central administration of justice; how much fati-

gue, bodily ailment, dissatisfaction, are created by it; how much the course of business is delayed, impeded, diverted, by it; nor how, in a great number of ways, it is rendered more costly.

17. We have thought it right thus in detail to lay before your Majesty the various grounds on which we are induced to recommend a concentration of the courts. Our next consideration was the place in which they should be brought together. Three only have been presented to our notice; 1. Westminster; 2. a portion of the interior of the square of Lincoln's-inn-fields; and 3. a site bounded, to speak generally, by Carey-street on the north, Pickett-street and the Strand on the south, Bell-yard on the east, and Clement's-inn on the west. It is this last, to be described more fully hereafter, which we recommend for selection.

18. For the first site may be urged the influence of very old and venerable associations, to the value of which we are by no means insensible; the convenience of its neighbourhood to the two Houses of Parliament, many of the public offices; and the Privy Council; the advantage of Westminster Hall, as a place of common resort for suitors; and its nearness to the river, making it easy of access even from the city. It must be admitted too that by removing the courts and the general administration of the law from Westminster, we so far break in on the principle of concentration, as we thereby make the separation more complete between those members of the bar and those attornies and solicitors who practise in the House of Lords, the Parliamentary committees, and before the Judicial Committee of the Privy Council, and the rest of the profession. These courts, if for the present purpose we may so call them, were not included in your Majesty's commission; but we have not overlooked any of these considerations; they seem, however, to be conclusively over-weighed by two on the other side—the first, that by bringing all the courts and their offices to Westminster, we should re-create, as regards the lawyers who practise in equity, and perpetuate, as regards those who practise at common law, and also, as regards the main body of London attornies and solicitors, the very serious inconvenience of separation from their chambers and offices; the second, the entire want of such space at Westminster, contiguous, or even near to Westminster Hall, as would be necessary for the purpose. Nor do we think it at all desirable, with the experience of the present courts, and of the committee rooms of the two Houses, to place the new buildings on ground so low and in such close vicinity to the river.

19. The second site was recommended to us by Mr. Harvey Gem, a gentleman who professed, and we have no reason to doubt correctly, to represent a large proportion of the proprietors of houses in Lincoln's-inn-fields. He proposed to give a site not exceeding four acres, in the garden of the square, on condition that the Government should expend the sum of £360,000, which he considered to be the cost of an adequate site elsewhere, in making certain improved approaches to the square. These, he thought, it would at present be desirable, and at no distant period necessary, on public grounds, to make; and that by making them, all objections on sanitary grounds to the covering with building the present open space would be obviated. The square, measuring from the fronts of the houses, is stated to contain nearly twelve acres; Mr. Gem's plan was to allow three acres for the site of the courts, and five for a public garden on the north and south of them. This space, however, even if an acre more were deducted from the garden, and added to the building ground, would not suffice for the buildings which will be found necessary to include all the offices and the depository for wills; if as much were taken from the interior of the square as would be necessary for these purposes, which we have reason to believe would be strongly objected to by the occupiers of the buildings and houses round, we are certain that the sanitary objection might with justice be urged, and the remedy suggested by Mr. Gem is too uncertain and remote for us to found our recommendation upon it.

20. We have, therefore, been brought to the consideration of the remaining site. In favour of this we have the concurrent testimony of witnesses from every branch of the profession. It is so near to Lincoln's-inn-fields, that, as to actual convenience of position, little difference exists between the two, but that little is in favour of this last; it has, as regards the metropolis, the great benefit of being a substitution for a neighbourhood of close and ill-built streets, badly ventilated and drained, and in respect of part at least, very disreputably inhabited; it is large enough for the purpose required, and the quantity of ground to be taken may be more or less according as the details of the building may require a greater or less area; all sanitary considerations are in its favour; it will at once have a good frontage towards the south; and it labours under no greater difficulties in this respect, on the north and other quarters, than the site proposed by Mr. Gem. The intervention of Fleet-street and the Strand, with their traffic entirely disproportionate to their width, must create a difficulty in either plan, as to the communication from the Temple; it has been proposed to remedy this by a glazed viaduct over Fleet-street, or a tunnel under it. Neither of these plans is free from inconvenience, it must be admitted; but we apprehend that no plan, entirely free, could be suggested; and the inconvenience to be submitted to must, after all, be weighed against that which the occupiers of chambers in the Temple labour under at present.

21. It remains for us to consider the further question referred to us by your Majesty—viz., whether there exist, or may be supplied, pecuniary means for providing a site or sites for the proposed courts and offices, and for erecting suitable buildings thereon.

22. We have humbly to report to your Majesty that there *do* exist funds, which, if they can with propriety be made available for the purpose (as, for the reasons hereafter stated, we think they can), will be found amply sufficient to carry these important objects into complete effect, without imposing any—or, if any, only a moderate and temporary—burden on the finances of the State.

23. The funds to which we allude may be classed under three heads, and may be shortly described as follows:—

1. A sum of £1,291,629 5*s.* 6*d.* stock (which will be hereafter referred to as fund B), constituting a portion, though a distinct and separate portion, of what is called the "Suitors' Fund" of the Court of Chancery.

2. A sum of £201,028 2*s.* 3*d.* stock (which will be hereafter referred to as fund D), arising from the accumulation of surplus fees received from suitors in chancery, and forming part of the fund known as the "Suitors' Fee Fund."

3. A sum of £88,254 5*s.* cash, standing to the credit of the Paymaster-General at the Bank of England (which will hereafter be referred to as fund E), arising from the surplus fees received by the officers of the superior courts of common law.

24. We will proceed to explain the nature of these several funds.

1. And, first, as to the "Suitors' Fund."

It is the practice of the Court of Chancery, in the exercise of its ordinary jurisdiction, upon the application of any party to a suit to order the property which is the subject of dispute to be brought into court, and there retained until the rights of the litigant parties can be ascertained and determined. When money is thus brought into court, the suitors interested therein may apply to have it laid out in the purchase of stock, and, upon such application,—or, in some cases, in the exercise of its own discretion,—the Court directs the money to be so invested. The stock purchased on every such investment is placed to the account of the cause or matter, to the credit of which the money invested was standing, and the risk of the investment is borne by the parties to whom the fund may ultimately be adjudged to belong, the intermediate interest being from time to time accumulated, or otherwise disposed of, for the benefit of the parties interested, as the Court may direct. At the date of the last return (1st of October, 1859) the securities thus placed under the control of the Court amounted to no less a sum than £47,040,885 7*s.* 8*d.*, the greater portion of which was invested in Three per Cent. Consols; and the whole of this large sum, income as well as capital, is the absolute and exclusive property of the particular suitors, by whom the original payments into court were made, or to whom, on the termination of each cause or proceeding, it may be judicially decreed to belong. With this fund, it must be clearly understood, we do not in any way seek to interfere.

25. But it frequently happens that money is brought into court, and the parties interested therein—either anticipating a speedy termination of their litigation, and not choosing to incur the risk of a fall in the funds, or for some other reason, or, it may be, from mere forgetfulness,—decline or neglect to apply to the court to have the same laid out and invested. In all such cases, the money, as between the suitors and the Court, remains in the hands of the Court as so much "cash," and at the termination of the litigation, the exact sum so brought in is paid out to the successful party, without increase or diminution.

26. Under the provisions, however, of various Acts of Parliament to which we shall presently advert, the Lord Chancellor is empowered from time to time to invest in stock, not the particular sums brought in by particular suitors, but such portion of the floating balance of suitors' cash lying unemployed in the Bank of England, as exceeds what may be required to answer current demands; in the same manner

that a banker employs the surplus balances, not of each particular customer, but of his customers generally, in discounting bills, or in other modes of investment. And just as the profit arising from such investments belongs to the banker, and not to his customer, who can claim no more than the precise sum of cash which he paid in, so, in regard to the investments above referred to, the successful suitor receives out of court exactly what was originally brought in, and is not entitled to participate in any profit which the Court may have made by the employment of a portion of the general cash balances belonging to the entire body of suitors.

27. It will thus be seen that there are, in effect, two distinct funds under the control of the Court of Chancery, belonging to the suitors of the court—one consisting of stock, the whole of which, income as well as capital, is the exclusive property of the suitors; the other, consisting partly of stock, and partly of cash (but the whole of which, as between the suitors and the court, is treated as "cash"), the capital of which represents the money from time to time paid in by the suitors, and, to the extent of the money so paid in, belongs exclusively to them, but to the income or profit arising from the employment whereof, such suitors can make no claim.

28. It is to the latter of these two funds, which is known as the "Suitors' Fund," and it is to this alone, that the following observations are intended to apply.

29. The history of this fund, its origin, growth, and then condition, were stated with great accuracy and in ample detail by Mr. Parkinson, the then chief clerk of the Accountant-General of the Court of Chancery, in the evidence given by him before the select committee of the House of Commons, on fees in courts of law and equity, which will be found in the first report of that committee, ordered by the House to be printed on the 8th of March, 1848. The substance of Mr. Parkinson's statements has been repeated by Mr. P. W. Rogers, one of the present registrars of the Court of Chancery, in the valuable evidence which he has given before us, and which will be found, with some explanatory documents, in the minutes of evidence and the Appendix annexed to this our Report. Its general purport and effect may be stated as follows.

30. Prior to the year 1725, it was the practice to deposit all monies and effects of the suitors, which were ordered to be brought into court, with the masters or usher of the court, by whom the monies deposited were employed for their own personal benefit, the advantage arising from such employment constituting, in fact, a portion of the profits of their respective offices. About that period, however, which was that of the South Sea Bubble, it was discovered that several of the masters were defaulters, and were unable to make good to the suitors the monies which had been so deposited with them. These defaults became the subject of Parliamentary inquiry and interference, and measures were promptly taken, both to indemnify the suitors whose property had been thus misappropriated, and to protect the public aginst the recurrence of similar abuses. With this view, his Majesty King George the First was pleased, upon the address of the House of Commons, to grant the fine of £30,000, which had been then recently imposed on Lord Chancellor Macclesfield, towards making up the deficiency in the masters' accounts, and two Acts of the Legislature were passed, the general effect of which we will proceed to state.

31. By the first of these Acts* (the 12th Geo. 1, c. 32), intituled "An Act for better securing the monies and effects of the suitors of the Court of Chancery," &c., certain orders of the Lords Commissioners of the Great Seal and of the Lord Chancellor, which had been recently made, with reference to the deposit and custody of the property of the suitors, and the mode of keeping the accounts thereof, were confirmed, and directed to be thenceforward observed and kept, subject to such variation as the Court of Chancery should, from time to time, and according to the exigency of circumstances, judge reasonable or proper. The Act then proceeded to direct that an officer should be appointed by the court, to be called "The Accountant-General of the Court of Chancery," who should, as to the several regulations and directions prescribed in the said orders, stand in the place of the masters and usher of the court, and should do and perform all such matters and things relating to the delivery of the suitors' money and effects out, and the taking them out of the Bank of England, and the keeping the accounts thereof, and all other matters relating thereto, as were by the said orders directed to be done by the said masters and usher. All securities then held by the masters and usher, in trust for the suitors of the Court, were directed by the Act to be transferred to the Accountant-General, and all securities to be thereafter taken were also to be taken in his name.

32. By the second of these Acts (12 Geo. 1. c. 33), intituled "An Act for Relief of the Suitors of the High Court of Chancery," after reciting that certain masters of the Court had been deficient in answering the money and effects of the suitors, ordered by the Court to be deposited in their hands; that after realizing and bringing to account the private estates and effects of the deficient masters, and applying Lord Macclesfield's fine of £30,000, given by his Majesty on the address of the House of Commons, towards the relief of the said suitors, with the interest thereon, there would be a computed deficiency of £51,851 19s. 11d., besides several other claims then in course of examination; and that the Commons of Great Britain were desirous to relieve the distressed suitors of the Court, and for that purpose, to make a sufficient provision for the payment of all their just demands, it was enacted, that from and after the 2nd of August, 1726, and thenceforward during the term of sixteen years, there should be levied and raised throughout England and Wales and the town of Berwick-upon-Tweed, over and above all then existing rates and duties, the several and respective rates, duties, and charges therein specified, upon all writs and other processes issuing out of any of the courts at Westminster, courts of great sessions in Wales, courts in counties palatine, or in any other courts whatsoever holding plea where the debt or damage amounted to 40s. or upwards, and upon all entries of action in the Mayor's and Sheriff's Court of London, and in courts in all corporations, and upon all citations or monitions made in any ecclesiastical court. The officers concerned in the collection of these duties were to keep separate and distinct accounts thereof, and to pay the same weekly into the Bank of England, where books were to be kept in which all monies received for such duties were to be entered, "apart and distinct from all other monies paid or payable on account of the suitors," and which monies, when so received, were to be and be considered "as part of the general and common cash of the Court of Chancery," and as such, to be issued and applied for the payment of the respective demands of the suitors thereof, as the Court should direct. The Court was also empowered to borrow money, to the extent of £60,000, on the credit of these duties, in case it should judge such a step to be necessary for the payment of the demands of the suitors, the money borrowed being paid into the Bank, and made part of the general and common cash of the Court for the benefit of the said suitors.

33. The Act further provided that, in order that no suitor might be delayed in payment of any money due to him, but that every one might receive his full demand, whensoever he should apply for the same, in the most easy and expeditious way, all the cash then, or which might thereafter be, deposited in the Bank on account of the suitors, and all monies arising from the duties thereby imposed, or borrowed thereon, and paid into the Bank, should be, and be accounted and taken to be, one common and general cash, and should be promiscuously issued, when and as the Court should direct, for answering and paying the debts and demands of any of the said suitors.

34. And further the Act provided, that when and so soon as the deficiency of the suitors' money, intended to be answered and paid out of the fund thereby established, and also all monies lent on the credit of the Act, should have been fully paid and satisfied, the surplus monies which should have been raised out of the said duties should from thenceforth be reserved for the benefit of the public, and should be applied to such uses only as should be thereafter decided by Parliament.

35. In the year 1736, another Act was passed (which, however, is not referred to in Mr. Parkinson's statement,) 9 Geo. 2, c. 32, intituled "An Act for continuing for the purposes therein mentioned the additional duties upon stamped vellum, parchment, and paper, laid by an Act passed in the twelfth year of his late Majesty King George I." From the recitals in this Act, it appears that the deficiency in the masters' offices, which had been computed at the sum of £51,851 19s. 11d. had, in fact, amounted to the sum of £103,635 6s. 2d.; that Lord Macclesfield's fine, with the interest thereon, had produced the sum of £39,834 16s. 7d.; and that there had been raised and collected, by means of the duties imposed by the before-mentioned Act, from the 2d of August, 1726, to the 3rd of March, 1735, the sum of £38,980 19s. 9d., making, with the said sum of £39,834 16s. 7d., the sum of £78,743

* As this, and some of the Acts subsequently referred to, are out of print, and as they are of considerable importance in tracing the history of these Funds, we have thought it right to print them in the Appendix.

16s. 4d., which being deducted from the before-mentioned sum of £103,635 6s. 2d., reduced the deficiency standing out in the offices of the said masters on the 8th of March, 1735, to the sum of £24,891 9s. 10d. The Act further recited, that a sum of £11,485 4s. 5d. had been found due from Master Bennett, another of the masters of the court, to the assignees of a bankrupt estate, which debt he had no means of satisfying, and in respect of which the creditors of the bankrupt might reasonably, and within the spirit and meaning of the former Act, be entitled to such and the like relief as was thereby given to the other suitors of the Court. It also recited, that the duties granted by the said former Act would not, as it was computed, be sufficient to raise both the outstanding deficiency of £24,891 9s. 10d. before referred to, and also the said additional sum of £11,485 4s. 5d., unless such duties were further continued, and the time for raising the same enlarged. It was accordingly by the said Act enacted, that the sum of £11,485 4s. 5d. should be raised, by continuing the said duties for a further term of four years, to be computed from the 2nd of August, 1742; that out of the before-mentioned sum of £38,980 19s. 9d., which had already arisen from the said duties, there should be placed to the account of the said bankrupt estate in the books of the Accountant-General of the Court of Chancery and of the Bank, the sum of £11,485 4s. 5d., and that the same should be issued and paid out of the general and common cash of the suitors in the Bank, as the Court should direct, in satisfaction of the before-mentioned debt. The Act also contained a provision, similar to that contained in the former Act, that when and so soon as the deficiency of the suitor's money, and all money, if any, borrowed on the credit of the duties, should have been fully satisfied, all surplus monies which should thenceforth have been raised by means of the said duties should be reserved for the benefit of the public, and be applied as Parliament might thereafter direct.

36. All these accounts were finally made up, balanced, and closed, by an order of the Lord Chancellor, dated the 19th January, 1749, of which a copy will be found in the appendix. From this order it appears that the separate deficiencies of the four defaulting masters had been ultimately found to amount to the aggregate sum of £100,871 6s. 3d.; that Lord Macclesfield's fine, for which a separate account had been opened in the books of the court, with the interest thereon, had produced the sum of £51,360 8s. 11d.; and that the rates and duties imposed by the before-mentioned Acts, for which a like separate account had been opened and kept, had produced the sum of £63,081 9s. (over and above the sum of £11,485 4s. 5d., which, in pursuance of the last of those Acts, had been applied in discharge of Master Bennett's debts.) These two sums, which amounted together to £114,441 17s. 11d. were sufficient to satisfy the masters' deficiencies, and to leave a surplus of £13,570 11s. 8d. The order, therefore, directed that the whole of Lord Macclesfield's fine and interest, and the sum of £49,510 17s. 4d., part of the produce of the rates and duties, should be carried over to the masters' general deficiency account, which was thereby balanced, and that the several accounts in question, so far as related to the deficiencies of the masters, should be closed.

	£	s.	d.
Lord Macclesfield's fine and interest	51,360	8	11
Produce of rates and duties, after deducting Bennett's debt	63,081	9	0
	114,441	17	11
Master's deficiencies	100,871	6	3
Surplus	13,570	11	8
Lord Macclesfield's fine	51,360	8	11
Carried over from account of rates and duties	49,510	17	4
	£100,871	6	3

37. The surplus of £13,570 11s. 8d., which thus remained, was disposed of by an Act of the 23 Geo. 2, c. 25, intituled "An Act for making good a deficiency upon the revenue of the office keeper or clerk of the hanaper, and for preventing any future deficiency therein to answer the public services provided for out of the same; and for augmenting the income of the master or keeper of the Rolls," (which is also left unnoticed in Mr. Parkinson's statement). After reciting the Acts of the 12 Geo. 1 & 9 Geo. 2, by which the rates and duties were imposed and continued, and that, after satisfying the deficiencies of the masters, the above-mentioned surplus of £13,698 1s. 11d. remained unapplied, and subject to the disposition of Parliament, the Act proceeds to state the sources from which the income or revenue of the ancient office of keeper or clerk of the hanaper in chancery was derived; that such income was in its nature uncertain and contingent, and had been for several years insufficient to provide the various fees, salaries, and disbursements which were payable thereout; and that there was then due and in arrear to the persons entitled thereto the sum of £10,590 12s. 11d., which, as the ancient revenue of the office would, in all probability, continue to be deficient, would be lost, while the services to which the same were for the future to be applied would remain unprovided for. The Act further recites that the revenue belonging to the office of Master of the Rolls was not adequate to the trouble, dignity, and importance of the office; and it then proceeds to enact, that out of the before-mentioned unapplied surplus of £13,698 1s. 11d., then remaining in the Bank of England, £10,590 12s. 11d. should be paid to the creditors of the hanaper office, as the Court of Chancery should direct, and that the residue should be placed out at interest in Government securities, the dividends whereof should be paid to the clerk of the hanaper; that the rates and duties imposed by the former Acts, which had expired in the month of August, 1746, should be revived as from the 24th of June, 1750, and made perpetual; and that from the produce thereof £3,000 should be paid yearly to the clerk of the hanaper, as part of the ordinary income and revenue of his office, out of which he was to pay to the Master of the Rolls for the time being the yearly sum of £1,200.

38. We have entered thus minutely into the provisions of these several statutes, because they appear to us to have an important bearing on the main question submitted for our consideration. We shall proceed to trace the subsequent history of the funds now in question, referring for the details to the statement of Mr. Parkinson, before mentioned, of which an ample summary is given in the evidence of Mr. Rogers, annexed to this our Report.

39. It was found that the fees authorized to be taken in the office of the Accountant-General were disproportionate and unequal, and, in small transactions, a great burden to the suitors. It was also found, that as all monies paid into court by the suitors, as well as those arising from the rates and duties before mentioned, were required to be accounted and taken as one common and general fund, and to be promiscuously used to answer the demands of the suitors, there had always been a large accumulation of suitors' cash lying dead and unemployed in the Bank of England. In the year 1739, therefore, an Act was passed (the 12 Geo. 2, c. 24), by which the Court of Chancery was authorized to lay out in Government securities a sum not exceeding £35,000, part of the then unemployed cash balance, and out of the interest arising from the investment, certain fixed salaries were to be paid to the Accountant-General and his clerks, in lieu of fees, the surplus interest being treated as part of the suitors' common and general cash.

40. Under the authority given by this Act, and in pursuance of an order of the Court of Chancery, of the 2nd July, 1739 (a copy of which will be found in the Appendix), the sum of £34,939 1s. 6d. cash was invested in the purchase of £36,850 Exchequer Tallies, which, in 1752, were exchanged for the same amount of Bank Three per Cent. Annuities. And this was, in fact, the foundation and commencement of that particular fund which bears the name of, and is known as, the "Suitors' Fund." To this we shall hereafter have occasion to refer as fund A.

In 1749, the deficiency of the masters was, as we have shown, declared by the Court to have been fully made up and satisfied, and on balancing the Accountant-General's books in October, 1749, and comparing the same with the books kept at the Bank, the amount of cash in court belonging to the suitors was found to be £196,545 4s. 11d., which was represented as follows:—

	£	s.	d.
Balance of cash then in the Bank of England	161,606	3	5
Invested in Exchequer Tallies (under the 12 Geo. 2, c. 24), as above mentioned	34,939	1	6
	£196,545	4	11

41. As the business of the Court of Chancery increased with the expanding commerce and growing wealth of the country, so the balances of unemployed cash belonging to the suitors continued to accumulate in the Bank, and repeated investments were from time to time made in respect thereof. In each case, the investment was specifically authorised by a separate Act of the Legislature, and all the Acts passed for the purpose are enumerated in the statements of Mr. Parkinson and Mr. Rogers, to which we have before referred. But in the year 1835, an Act was passed (the 1 & 2 Vict. c. 54), by which the Lord

Chancellor was invested with a general authority from time to time to order the placing out on Government securities of such portions of the suitors' cash, lying dead and unemployed in the Bank, as he might judge to be expedient. Large investments have accordingly been made in pursuance of the said Act, and in addition thereto, the Act of the 5th Vict., c. 5, by which the equity jurisdiction of the Court of Exchequer was abolished, directed that all the funds which had been purchased out of the general cash belonging to the suitors of that Court should be transferred to the Accountant-General of the Court of Chancery, and should be added to, and consolidated with, the funds held by him under the provisions of the various Acts above referred to.

42. The general result of these operations has been, that the invested fund purchased with suitors' cash, which we have called fund A., and which commenced in the year 1739 with the sum of £36,850 stock, had, on the 1st of October, 1859, reached the large amount of £2,613,360 14*s.* 3*d.* stock, purchased with the sum of £2,264,744 1*s.* 10*d.* cash. The dates and particulars of the several investments, by means of which this aggregate sum was made up, will be found in the accounts accompanying the valuable evidence of Mr. Parkinson, junior, given before us, from which it also appears that, on the 1st of October, 1859, the amount of cash in court belonging to the suitors was £2,962,991 3*s.* 9*d.*, which was made up as follows:—

	£	*s.*	*d.*
Balance of cash then in the Bank of England....	698,247	1	11
Invested in stock, as above	2,263,744	1	10
	£2,964,991	3	9

43. Such is the history of fund A., and with this also it must be clearly understood that we do not in any way propose to interfere.

44. We shall now proceed to explain the origin, progress, and present condition of that part of the "Suitors' Fund," to which we have already referred, and shall hereafter have frequent occasion to refer, as fund B

45. It will have been seen that, by the Act 12 Geo. 2, c. 24' which we have treated as the commencement of the "Suitors Fund," the interest of the sum thereby directed to be invested was to be applied in payment of certain salaries to the Accountant-General and his clerks, and the residue of such interest was to constitute part of the common and general cash of the suitors. Similar provisions were contained in succeeding Acts, that is to say, the income arising from the investments thereby directed to be made was to be applied to the augmentation of the salaries of the masters and other existing officers of the court, or the payment of the salaries to new or additional officers thereby appointed, and the surplus income was to be added to the suitors' general cash.

46. In the year 1768, however, an Act was passed, the 9th Geo. 3, c. 19, by which it was directed that, as the interest of these various investments was more than sufficient to pay the salaries charged thereon, the surplus interest which had arisen, and should thereafter arise therefrom, together with the interest of the securities to be purchased with such surplus interest, should from time to time be placed out on government securities, the interest or annual produce of which should be carried, part thereof, to a distinct and separate surplus interest account, to be designated as therein mentioned, and the remainder to another like separate and distinct account, but with a different designation. For what purpose this separation of accounts was made is not very obvious, nor is it material to inquire, since, by a subsequent Act, the two accounts were directed to be blended into one. It is sufficient to say, that the directions of the Act were carried into effect. and the surplus interest therein referred to from time to time duly invested in Government securities. And as we have described the Act of the 12th Geo. 2, c. 24, as the commencement of fund A., so this Act of 9 Geo. 3, c. 19, may be considered as the foundation of fund B., which has been properly termed the "Profit or Accumulation Fund."

47. In the year 1774, an Act was passed (the 14th Geo. 3, c. 43), from the recitals in which it appears that the securities purchased with such surplus interest, and then standing to the credit of the respective accounts above referred to (forming the "Profit" or "Accumulation" Fund), amounted together to the sum of £10,200 Bank Three per Cents., which securities the Act declared to be "unappropriated." This sum, together with the interest to arise from a sum of £50,000 suitors' cash thereby directed to be invested on account of fund A., and also the surplus interest thereafter to arise from any of the preceding investments made on account of the same fund, the Act directed to be applied, under the orders of the Court of Chancery, towards rebuilding the Six Clerks' Office, and purchasing ground and houses for the purpose, and erecting suitable offices for the Registrar and Accountant-General of the Court. When the purposes of the Act had been accomplished, the appropriation of funds thereby directed was to cease, and the surplus interest thenceforth to arise from the before-mentioned securities was to be from time to time invested, as before, and the interest to be added to and accumulated with fund B.

48. The provisions of this Act were slightly varied by two Acts of the 15th Geo. 3, one for vesting part of the garden of the Society of Lincoln's-inn in the Accountant-General and his successors, for the purpose of erecting thereon offices for him and for the Registrar of the Court—and the other for authorising the funds provided by the Act of 1774 to be applied in building a new office for the Six Clerks in the gardens of Lincoln's-inn, instead of rebuilding the old office in Chancery-lane.

49. In 1777 another Act was passed (the 17 Geo. 3, c. 59), which dealt in a remarkable manner with fund B. From the recitals in this Act, it appears that, in consequence of the mode in which successive Masters of the Rolls had exercised the right of granting and renewing leases of certain portions of the Rolls' estate, under leasing powers contained in an Act of the 12 Car. 2, the beneficial interest in the improved rents thereof had become absolutely vested in the Master of the Rolls by whom such leases were granted, and on his decease, accrued to his family, as part of his private property, to the exclusion of his successors in the office, by means whereof, the income intended for the support of the office was rendered uncertain and precarious. It further appears therefrom that Sir Thomas Sewell, the then Master of the Rolls, and the Earl of Macclesfield, as residuary legatee of Sir Thomas Clarke, the late master, were respectively entitled to the beneficial interests in certain of the said improved rents, and that, with a view to the power of granting leases for the future being properly regulated, and in order that the Master of the Rolls for the time being might not be deprived of so considerable a part of the income necessary to the support of the rank and dignity of his office, it had been proposed to them, and they had respectively agreed, to accept as an equivalent for the relinquishment and surrender of their rights, sums amounting together to £21,029 10*s.* 10*d.*, at which the same had been valued. The Act further states, that the offices for the Registrar and Accountant-General had been erected and finished, and great progress had been made in erecting the offices for the six clerks, and that all the purposes of the three Acts of the 14 & 15 Geo. 3, above referred to, had been in a great measure answered out of the funds thereby provided; that the surplus income arising from these funds amounted to £2,582 18*s.* per annum, "which was unappropriated," except only as to what still remained to be raised thereout, in order to complete the buildings in progress; and that it was computed that, in case the said sum of £21,029 10*s.* 10*d.* were borrowed on a mortgage of the Rolls estate, such mortgage might be discharged out of the said surplus income in about ten years, besides what might appear to be still wanting fully to answer the purposes of the Acts of the 14 & 15 Geo. 3. It was therefore enacted that, out of the suitors cash then lying dead and unemployed in the Bank of England, the expenses of obtaining the Act should be defrayed, and the said sum of £21,029 10*s.* 10d. paid to the Earl of Macclesfield and Sir Thomas Sewell, in the proportions therein mentioned, in full satisfaction of their respective interests in the Rolls estate under the before mentioned leases, which sum was to be considered as advanced on the security of, and was to be a charge by way of mortgage on, the said estate, but was to be repaid and discharged, and the said mortgage redeemed, out of the surplus interest before-mentioned.

50. It appears by an order of the 25th of August, 1794 (a copy of which will be found in the Appendix), that the whole of this sum was repaid and made good to the Suitors' Fund out of the surplus interest, and the account thereof was finally balanced. By a recent Act (7 Will. 4, & 1 Vict. c. 46) the Rolls estate has become vested in the Crown.

(To be concluded in our next Number.)

The Courts, Appointments, Promotions, Vacancies, &c.

VICE-CHANCELLORS' COURTS.

(Before Vice-Chancellor Sir R. T. KINDERSLEY.)

July 11.—*Gibson* v. *Gibson*.—This was a motion to vary the taxing master's certificate, he having disallowed the fees of two counsel, for two sets of respondents. The suit involved the question of dower, and after decree made and a release executed, a petition was presented by one of the parties entitled under the will of the testator in the cause, for payment out of court of a share of the fund. To this petition, which was unopposed, the plaintiff and another person were respondents, and two counsel, a Queen's counsel and a junior, appeared for each respondent; the employment of two counsel the taxing master considered unjustifiable, and refused to allow the costs of more than one.

His HONOUR considered that it was a miscarriage of the taxing master, and that the matter must go back to him; but, counsel on both sides submitting that it would be very desirable to decide the question whether it was in the discretion of the taxing master (which the Court could not interfere with) to determine whether, upon a petition generally, there might be two counsel for each party, his Honour would consider the authorities upon this point before delivering an opinion.

BOW-STREET POLICE COURT.

July 10.—Henry Errington, one of the toll keepers at Waterloo-bridge, was summoned before Mr. Hall, under the Waterloo-bridge Act, 49 Geo. 3, c. 191, s. 108, for exacting toll from Mr. Hodgkinson Lowe, of the 37th Middlesex Rifle Volunteers, when returning from drill at the Foundling Hospital on the 4th of July, that being the day and place appointed for exercise by the commanding officer, and Mr. Lowe being dressed in the uniform of his corps, and wearing his arms, accoutrements, and furniture, according to the regulations. Mr. Lowe deposed to the facts, and stated that the objection by the toll-keeper to allow him to pass free was, that he had not his rifle; to which he replied, that he had his side-arm, holding up his sword-bayonet. Mr. Bird, the solicitor for the company, pointed out that the word "volunteers" was used in the plural in the Act, and suggested that the meaning was that they should go in a body; he also contended that they should carry their arms; the complainant had not his rifle, and was therefore liable to the toll.

Mr. HALL, the magistrate, said, in answer to the first objection, that gentlemen could not be expected to go in a body, because some would have to cross one bridge and some another, while many might not require to cross any bridge at all. When dispersed after drill they were at liberty to make the best of their way home, according to their own convenience; and with regard to the second objection, it was clear that Mr. Lowe had those arms and accoutrements which were sufficient to satisfy any reasonable person that he was returning from drill. Besides, the words in the Act were, "according to the regulations." Mr. Lowe had fully complied with this condition, for the regulation was that the rifles should be left in the armoury, which he, Mr. Hall, considered a very proper and reasonable provision. If any volunteer should be mean enough to commit an imposition, which was very improbable, he was liable to the same penalty as could be imposed on the tollman for illegally exacting the toll. Under the circumstances, he could not do less than inflict a penalty of 10s., and 2s. costs. Mr. Bird said that these points had been raised for the purpose of having them settled to prevent difficulties hereafter; but the tollman has never been instructed to take the toll from volunteers when actually carrying their arms.

The Queen has been pleased to appoint Archibald Paul Burt, Esq., to be Civil Commissioner and Chairman of Quarter Sessions for the Colony of Western Australia; Francis Spencer Wigley, Esq., to be Attorney-General for the Island of Saint Christopher; John Palmer, Esq., to be Treasurer for the Island of Saint Lucia; and Macnamara Dix, Esq., to be Treasurer for the Island of Dominica.

Mr. Thomas Harrison, of No. 5, Walbrook, London, has been appointed a Commissioner for administering oaths in the Courts of Queen's Bench and Common Pleas.

The Lord Chancellor of Ireland has appointed Mr. Hoyle, solicitor, of Newcastle-upon-Tyne, a commissioner for taking affidavits, &c., in the Irish Court of Chancery for the northern counties of England.

Parliament and Legislation.

HOUSE OF LORDS.

Monday, July 9.

LAW AND EQUITY.

On the order for going into committee on this Bill,

The LORD CHANCELLOR said—I have to express my regret, my lords, that some of the most material clauses which were in the Bill have been rejected by the select committee to whom the Bill was referred. But I hope that before long those clauses will be adopted; and when they shall have become law I feel sure they will work for the benefit of the public. The clauses which have been struck out of the Bill are those which would have enabled courts of common law to do what at present can only be done by courts of equity—that is, to grant relief in cases of forfeiture for breach of covenant or non-payment, on the days fixed, of the rent reserved, and for non-insurance of property against fire. The Bill, as it stands, still contains some important amendments of the law, which, I believe, will be found beneficial in practice; and I shall therefore submit it to the favourable consideration of your lordships. I must add that two clauses have been omitted by mistake; but as there is, I believe, no objection to them, I will now move to insert them in the Bill.

Lord BROUGHAM.—I entirely agree with my noble and learned friend in the regret which he has expressed that a considerable portion of the Bill has been expunged by the select committee, and I share with him the hope that the decision of the select committee will in another session be reversed. I trust that next year we shall find—I will not say a sounder opinion prevail, because that would be to assume that my noble and learned friend near me (Lord Chelmsford) has not been dealing with the clauses on their merits—but I hope a different opinion will be formed. We (my noble and learned friend on the woolsack and myself) believe that the majority of the select committee were wrong, and that we were right (laughter); but my noble and learned friend and myself were overpowered by the select committee (laughter). I will venture to hope that different views on the subject will, on another occasion, be adopted by my noble and noble and learned friends; and should that be so, it will not be the first time that I have seen a great change take place in the opinion of your lordships on questions of great importance to the community at large (hear, hear).

Lord CHELMSFORD.—I dissent from the view taken by my noble and learned friends as to the course adopted by the select committee. It is true my noble and learned friends were overpowered in committee; so much so, indeed, that they made no opposition to the motion that the clauses should be struck out of the Bill (hear, hear, and laughter). I shall express no regret at the course taken in committee, because I believe the Bill has been much improved by the omission of the clauses referred to. Those which remain will, I think, be exceedingly useful in practice, and I sincerely hope that the clauses which were in the original Bill, and which the committee rejected, will never again be found in any Bill which may be brought into this House. But if they should be, I trust the same course will be pursued (hear, hear).

Lord BROUGHAM.—My noble and learned friend says we offered no opposition to the motion to expunge the clauses. All I can say is, that we did intend to oppose the course proposed by the committee, but we very soon found that all opposition would be perfectly fruitless, joined as my noble and learned friend was by the noble lords on the bench opposite. I may say that I yielded, but very reluctantly yielded, to what appeared to be the determination of the majority (hear, hear).

The LORD CHANCELLOR.—I think my noble and learned friend is quite right in stating that we reluctantly yielded to the course proposed. The supporters of the Bill in its original shape were obliged to yield to what the lawyers call the *vis major* (laughter), which, of course, we could not resist. I do hope, however, that the time is not far distant when a change

will take place in the opinions of my noble friends who were on the committee.

Lord BROUGHAM.—That their opinions may be changed by the mute eloquence of my noble and learned friend (Lord Chelmsford).

Lord CRANWORTH.—My lords, I think the clauses were rejected because my noble friends, the lay lords who were on the committee, were induced to believe that it would be impossible to bring them into operation in the courts of law.

The LORD CHANCELLOR.—It appeared to me that some of the lay lords were in favour of the clauses.

Lord BROUGHAM.—Is it to be supposed that the lay lords were the cause of the clauses being rejected (laughter)?

The Bill then passed through committee.

Thursday, July 12.

MARRIAGE LAW (SCOTLAND).

The LORD CHANCELLOR announced his intention of introducing a Bill for the amendment of the marriage law in Scotland.

INDEMNITY.

This Bill was read a second time.

LAW AND EQUITY.

This Bill was read a third time and passed.

HOUSE OF COMMONS.

Monday, July 9.

BANKRUPTCY AND INSOLVENCY.

Petitions were presented by the Attorney-General, from Chorley, Lancashire, to extend jurisdiction in bankruptcy to county courts; from Newcastle, Staffordshire, to the same effect; and from Llanfyllin, Montgomeryshire, that bankruptcies may be conducted in the county courts, and that the courts should sit monthly, and not bi-monthly.

NEW WRIT.

On the motion of Mr. BRAND a new writ was ordered for the election of a burgess to serve in Parliament for the borough of Brighton, in the room of Rear-Admiral Sir G. Pechell, deceased.

TRANSFER OF REAL ESTATES.

Mr. HOPWOOD asked the Attorney-General whether he intended to proceed this session with the Bill to amend the laws relating to the transfer of real estates, and the title thereto.

The ATTORNEY-GENERAL anticipated that so much time would be taken up with the Bankruptcy and Insolvency Bill that he should not be able to proceed this session with the Bill to amend the Law relating to the Transfer of Real Estates and the Title thereto.

INDEMNITY.

This Bill was read a third time and passed.

BANKRUPTCY AND INSOLVENCY (SALARIES).

The ATTORNEY-GENERAL, after referring to the vote of the 25th of June, stated the course which he intended to adopt to repair what he called the mischief done by that vote. He proposed to leave the additional salaries of the county court judges charged upon the Consolidated Fund, and to give to that fund a very large compensation for that small additional charge. As the object of the Bill was to give additional labour in bankruptcy to those judges, he proposed to make the salaries of all county court judges £1,500 a-year. In return for this it had been felt that the fees of the county courts would well bear some augmentation. At present 10*d.* only was paid for each plaint; it was proposed to increase that to 1*s.* At present nothing was paid for the service of a summons, and in consequence summonses were frequently taken out vexatiously. It was proposed to impose a small charge upon the service of a summons, and so numerous were these summonses that this trifling additional impost, which had been recommended by fifty county court judges out of fifty-seven, would bring in to the Consolidated Fund about £34,000 a-year, the charge which he proposed to throw upon it amounting to only £10,500. The other measure which he asked the House to adopt was to leave the retiring annuities created by the Act of 1831 charged where they now are, that a statement of accounts should be laid before Parliament on the 1st of March every year, and that a vote for any deficiency which might exist, never exceeding the amount of compensations and retiring allowances should be taken on the 1st of April. In that way he expected to enable the Court of Bankruptcy to diminish its fees by the reduction of the stamp duties, the abolition of the per-centages renewed by the official assignees, &c., to the amount of about £90,000 per annum. In making this large reduction he reckoned upon a considerable increase in the income of the Court, which he expected would be made by bringing all trust deeds and deeds of composition within the reach of the law of bankruptcy. The learned gentleman concluded by moving that the first resolution as amended be agreed to—viz., "That the salaries, allowances, remunerations, and retiring annuities, which may become payable to certain persons appointed under or affected by any Act of the present session for amending the law relating to bankruptcy and insolvency in England, shall be charged upon the Consolidated Fund of the United Kingdom of Great Britain and Ireland."

After some observations from Sir H. Willoughby, Mr. Bouverie, Mr. Barrow, Mr. Henley, and Mr. Williams, the resolution as amended was agreed to.

The other resolutions passed in committee were likewise adopted by the House.

BANKRUPTCY AND INSOLVENCY.

The House then resolved itself into committee on this Bill.

Clause 28, which proposes an addition to the salary of the county court judges, was, on the motion of the Attorney-General, omitted, it being his intention to bring up a new clause.

Clauses 29, 30, & 31 were agreed to.

On clause 32, providing that cases of debt or damage not exceeding 40*s.* in value might be tried by the registrar of a county court, instead of by the judge,

Mr. BOUVERIE objected to delegating the functions of county court judges to the registrars of those courts. If the duties of these judges were too much increased, a proper remedy for the evil was supplied by the 25th clause—viz., the subdivision of their districts.

After a few words from Mr. Montague Smith, Sir F. Goldsmid, Mr. Roebuck, Mr. Collier, and Mr. Malins,

The ATTORNEY-GENERAL said that although this clause only proposed to make the transfer of business in cases in which it appeared to be absolutely requisite, he recognised the force of the objections which had been urged to it, and would consent that it should be negatived.

The clause was accordingly negatived,

Clauses 33 and 34 were agreed to.

On clause 35,

Mr. MURRAY moved an amendment, giving the Lord Chancellor power to fix the salaries of the clerks of the official assignees.

The ATTORNEY-GENERAL concurred in the amendment.

Mr. HENLEY thought it would be more prudent to leave the clerks as they stood. The Bankruptcy Court was always being reformed, and in a few years when the next reform took place, if this change were made, they would have the clerks to compensate as well as the official assignees.

After some further discussion,

Mr. MURRAY withdrew his amendment for the present, and the clause was agreed to.

Clause 40,

Mr. ROEBUCK said that this clause provided for the vacations of the district commissioner of bankruptcy, and he wanted to know why vacations were not provided for the county court judges, who worked as hard as any men.

Mr. HENLEY observed that the district commissioner of bankruptcy was to have £1,800 a-year, and, when he took his holiday, £200 were to be paid to his deputy; so that his salary became £2,000 a-year. He thought that if the commissioner of bankruptcy wanted a deputy he should pay for one out of his salary.

After some discussion, in which the Attorney-General, Mr. Malins, Sir F. Kelly, Mr. Barrow, and Mr. A. Smith joined,

The committee divided on the clause, which was rejected by a majority of 2.

Upon clause 41, which provides that cases in which the assets shall not amount to £300 may be transferred from the chief court to the inferior tribunal,

Sir F. KELLY suggested whether it was expedient to adopt the amount of assets as the sole criterion of the importance of the case. Perhaps, in the majority of cases, the amount of assets was the best test, but it might happen that a bankrupt with little or no assets had incurred enormous liabilities, and there were clauses in the Bill rendering a bankrupt liable to prosecution, or to the summary jurisdiction of the Court for contracting large debts without the means of payment.

Mr. ROEBUCK said that great questions of law had been determined upon cases involving £5 or £6. It was a mistake to suppose that people having small sums in litigation ought to have an inferior tribunal to decide their rights. The sum of £100 to one man was of the same value as £100,000 to another, and justice ought to be done indifferently. There ought to be a Court to deal with all cases of bankruptcy, without regard to the amount of assets.

The ATTORNEY-GENERAL moved the omission of the words "in any case" in the 13th line of the clause.

Mr. ROEBUCK pressed for an answer to his objection.

The amendment was then agreed to, as was also the omission of the words "before the chief judge" in line 14.

On the motion of Lord HENLEY, the words "or the proper county court, as the case may be," were added at the end of the clause.

On the question that the clause as amended stand part of the Bill,

The ATTORNEY-GENERAL defended the policy of the clause. As a general principle it might be held that wherever there was a small estate, there was little legal business to be done—any questions which might be raised in such a case could be of very little importance. As to the objection of the member for Sheffield he could not understand how the hon. member, who had constituted himself the advocate of the county courts, could prove that to send a bankrupt whose assets were under £300 before one of the courts was giving him an inferior measure of justice. The great qualification of justice was that it should be freely and easily obtained; and if there was one feature in this Bill which, above all others, had called forth the marked approbation of the public, it had been the disposition to give every facility to creditors to transfer these cases to the administration of the county courts.

Mr. ROEBUCK said he must express his inability to discover why there should be two jurisdictions—one inferior, and the other superior. If the hon. and learned gentleman thought the county court judge the superior jurisdiction, then he conferred a benefit on the poor, and a hardship on the rich.

The clause was then agreed to.

Clauses 42, 43, 44, 45, and 46, were agreed to.

On clause 47,

Mr. MALINS thought the procedure laid down, instead of being "by petition or motion," ought to be by petition only. He also thought that the right of appeal, instead of being restricted to within twenty-eight days, should be extended to forty-two days.

The ATTORNEY-GENERAL thought the point of practice referred to should be left open, as was done in the Bill, and he saw no reason why the term for appeal should be more than twenty-eight days.

The clause was then agreed to, as was also clause 48.

Upon clause 49,

Sir F. KELLY proposed to insert the words "the chief judge may, if he think fit, request the assistance of one or more of the judges of the superior courts of common law." As the chief judge of bankruptcy was to be equal in rank to the puisne judges, and as the questions that would come before him would be difficult and important, it was desirable he should be able to have the assistance of a common law judge upon such matters.

The amendment was agreed to.

Mr. MALINS having contended that the right of appeal as proposed by the clause should be as unfettered as possible, moved the omission of the words "and such appeal shall be, on a special case to be approved and certified by the chief judge." The power of appealing ought, in his opinion, to be constituted the privilege of the suitor who was dissatisfied with the decision of the Court, and not be left altogether dependent on the voice of the judge; adding that the system of "special cases" was both inconvenient and expensive.

The ATTORNEY-GENERAL, while admitting that obstacles lay in the way of getting up such cases, was at the same time of opinion that they acted as powerful auxiliaries in the promotion of economy. The point was one, however, he was ready to admit, well worthy of consideration.

Sir H. CAIRNS maintained that the operation of the clause would be to unsettle to some extent the present practice, by providing that an appeal should proceed in a special case where facts were in dispute, thus by anticipation deciding what those facts really were which it would be the object of the appeal to ascertain.

After a few words from Sir F. Goldsmid and Mr. Collier,

The ATTORNEY-GENERAL acceded to the amendment.

Mr. MALINS then moved the omission of all the words after order." The Attorney-General had given up the principle of the clause, which was made to restrict the right of appeal, in acceding to his previous amendment; and he did not see, if there was to be an open appeal to the Lords Justices, why there should not also be an appeal to the House of Lords.

The amendment was objected to by Mr. James, Mr. Montague Smith, and Sir Hugh Cairns, and it was ultimately withdrawn.

The clause was then agreed to.

Clauses 50 to 65, both inclusive, were agreed to.

On clause 66,

Mr. SCHOLEFIELD proposed an amendment for the purpose of compelling the chief judge in London to try his own jury cases, instead of referring them to a court of common law.

The amendment was however negatived, and the clause was ordered to stand part of the Bill.

In clause 67,

Mr. ROEBUCK asked the Attorney-General to consent to the omission of the words, "or by interrogatories in writing." The system of taking evidence by interrogatories was at once the most incomplete, the most confused, and the worst that could be resorted to. He hoped the right hon. gentleman was not about to perpetuate it by his Bill.

The amendment was agreed to.

Sir F. KELLY then proposed the insertion of words enabling the Court to direct evidence to be taken by commission abroad, when necessary.

This amendment was also agreed to, and clause 67 was ordered to stand part of the Bill.

Clauses 68 to 72 were agreed to without discussion.

On clause 73,

The ATTORNEY-GENERAL moved an amendment giving power to transfer the officers of the Insolvency Court to the new Court of Bankruptcy.

Sir F. KELLY said he had no objection to the amendment, but asked what arrangement was to be made in regard to salaries, since many of the officers of the Insolvency Court were paid by fees as well as by salaries?

The ATTORNEY-GENERAL said that they would continue to receive the same salaries and emoluments as at present.

The amendment was adopted, and the clause was agreed to.

Clauses 74, 75, and 76 were agreed to.

On clause 77, providing for the appointment and payment of a substitute during the temporary absence of the commissioner or registrar from sickness or other reasonable cause,

Mr. SCHOLEFIELD moved the insertion of words providing that the amount paid to the deputy in such a case shall be deducted from the salary of the officer in whose absence he shall act.

The ATTORNEY-GENERAL thought the committee had gone far enough in this direction, and that in common charity and kindness the House ought to allow the salary of the deputy in such cases as were contemplated by the clause.

After some further discussion, the committee divided, and the amendment was carried by a majority of 10. The words "after Act" were therefore struck out.

The ATTORNEY-GENERAL said he would not have introduced this provision, had it not been to secure the constant administration of justice, and to prevent any of the courts being shut up in the absence of a commissioner or registrar on account of illness or other urgent reason. He believed that this provision met that exigency in a satisfactory manner; but he could not consent to its adoption except in its original form. He trusted that the committee, having struck out the provision for the payment of a substitute, would omit the clause altogether. He should certainly take the sense of the House on that question.

After a somewhat angry discussion, the clause, as amended was agreed to without a division.

The committee adjourned the further consideration of the Bill until Thursday, at 12 o'clock.

Tuesday, July 10.

NEW LAW COURTS.

CHANCERY EVIDENCE.

Mr. COLLIER asked when the report of the commissioners on the subject of the building of the new courts of law and equity would be laid on the table. He also inquired when the report relative to the mode of taking evidence in the Court of Chancery would be presented.

Sir G. C. LEWIS said the report on the concentration of the courts of law had already been presented. The report on the mode of taking evidence in the Court of Chancery would be published as soon as the printing arrangements would admit.

Thursday, July 12.

BANKRUPTCY AND INSOLVENCY.

The House again went into committee on this Bill.

Clauses 78 to 81 were agreed to.

On clause 82,

Lord HENLEY moved the addition of words to enable county court registrars and official assignees to practise as attorneys.

Mr. JAMES objected that by the amendment the partner of an official assignee might practise in a case in which the official assignee was interested.

The ATTORNEY-GENERAL observed that it would be difficult to get persons to act as registrars or official assignees if they were not allowed to practise, unless very large salaries were paid to them. In this belief he had assented to the amendment, but he was ready to admit that the anomaly referred to by the hon. and learned member for Marylebone should be provided for.

Lord HENLEY, at the suggestion of the Attorney-General, withdrew his amendment, the latter promising to frame a clause that would meet the object the noble lord had in view, and, at the same time, obviate the objection taken by the hon. and learned member for Marylebone.

The clause was then agreed to.

Clause 83 and the clauses up to 100 were agreed to.

Clause 101, relating to the remuneration of official assignees, was postponed, and clause 102 was struck out.

Clauses 103 and 104 were agreed to.

On clause 105,

The ATTORNEY-GENERAL said he meant to postpone this clause, which abolished the office of messenger. He would bring up another clause, providing that the present messengers should retain their offices during life; that in London they should be gradually reduced to two; that the country messengers should be appointed according to the state of business, and that they should be remunerated by such fees as the Lord Chancellor might direct for duties actually performed.

The clause was then postponed.

Clauses 111, 112, 113, and 114, were agreed to.

Clause 115 was postponed.

Clauses up to 127 were agreed to.

On clause 128, which provides that no dividend shall be claimed after the expiration of twenty years,

Mr. VANCE suggested that the clause should be prospective only, and not retrospective.

The ATTORNEY-GENERAL acquiesced, and the clause was altered accordingly.

The Chairman was then ordered to report progress, and the sitting was suspended.

PLEA ON INDICTMENTS.

A petition was presented by Mr. Denman from the Birmingham Law Society in favour of this Bill.

THE LAWS OF JERSEY.

In reply to Mr. HADFIELD,

Sir G. LEWIS stated that the report of the commissioners appointed to inquire into the laws of Jersey was presented to the Queen in Council on the 26th June, and no time would be lost in laying it before the House.

VOLUNTEER RIFLE CORPS.

Leave was given to Mr. Selwyn to bring in a Bill for facilitating the acquisition by Volunteer Rifle Corps of grounds for rifle practice.

CROWN DEBTS AND JUDGMENTS.

This Bill was read a second time.

PENDING MEASURES OF LEGISLATION.

LARCENY, &c.

(*Concluded from p.* 704.)

93. Separate receivers may be included in the same indictment in the absence of the principal.

94. On an indictment for jointly receiving, persons may be convicted of separately receiving.

95. Persons receiving, where the principal has been guilty of a misdemeanor, may be indicted and convicted thereof, whether the persons guilty of the principal misdemeanor shall or shall not have been previously convicted thereof, or shall or shall not be amenable to justice; and every such receiver shall be liable to be kept in penal servitude for any term not exceeding seven years and not less than three years, or to be imprisoned for any term not exceeding two years, with or without hard labour, and with or without solitary confinement, and, if a male under the age of eighteen years, with or without whipping.

96. Whosoever shall receive any chattel, &c., knowing the same to have been feloniously stolen, &c., may, whether charged as an accessory after the fact, or with a substantive felony, or with a misdemeanor only, be indicted, &c., in any county or place in which he shall have had any such property in his possession, or in any county or place in which he may be apprehended or be in custody, or in which the party guilty of the principal felony or misdemeanor may by law be tried, in the same manner as such receiver may be dealt with, in the county or place where he actually received such property.

97. Receivers of property, where the original offence is punishable on summary conviction shall, on conviction thereof before a justice of the peace, be liable, for every first, second, or subsequent offence of receiving, to the same forfeiture and punishment to which a person guilty of a first, second, or subsequent offence of stealing or taking such property is by this Act made liable.

98. Principals in the second degree and accessories shall, on conviction, be liable to be imprisoned for any term not exceeding two years, with or without hard labour, and with or without solitary confinement; and every person who shall aid, &c., the commission of any misdemeanor punishable under this Act shall be liable to be indicted and punished as a principal offender.

99. Whosoever shall aid, &c., commission of any offence by this Act punishable on summary conviction, either for every time of its commission, or for the first and second time only, or for the first time only, shall, on conviction before a justice of the peace, be liable, for every first, second, or subsequent offence of aiding, &c., to the same punishment to which a person guilty of a first, second, or subsequent offence as a principal offender is by this Act made liable.

100. The owner of stolen property prosecuting thief or receiver to conviction shall have restitution of his property, and the Court may, in its discretion, order restitution in other cases. If it shall appear before any order is made that any valuable security shall have been *bonâ fide* paid by some person liable to the payment thereof, or being a negotiable instrument shall have been *bonâ fide* taken or received by transfer or delivery, for a valuable consideration, without reasonable cause to suspect that the same had by any felony or misdemeanor been stolen, &c., in such case the Court shall not award or order the restitution of such security. Nothing in this section contained shall apply to the case of any prosecution of any trustee, banker, merchant, attorney, factor, broker, or other agent intrusted with the possession of goods or documents of title to goods, for any misdemeanor against this Act.

101. Persons corruptly taking a reward for helping to the recovery of stolen property without bringing the offender to trial, shall (unless he shall have used diligence to cause the offender to be brought to trial for the same) be guilty of felony, and liable to be kept in penal servitude for any term not exceeding seven years, and not less than three years, or to be imprisoned for any term not exceeding two years, with or without hard labour, and with or without solitary confinement, and, if a male under the age of eighteen years, with or without whipping.

102. Whosoever shall publicly advertise a reward for the return of any property which shall have been stolen or lost, and shall in the advertisement use words purporting that no questions will be asked, or shall make use of any words in any public advertisement purporting that a reward will be given for any property which shall have been stolen or lost, without seizing or making any inquiry after the person producing such property, shall promise or offer in any such public advertisement to return to any pawnbroker or other person who may have bought or advanced money by way of loan upon any property stolen or lost, the money so paid or advanced, or any other sum of money or reward for the return of such property, or shall print or publish any such advertisement, shall forfeit the sum of £50 for every such offence, to any person who will sue for the same by action of debt, to be recovered, with full costs of suit.

103. A person in the act of committing any offence, or in possession of stolen property may be apprehended without a warrant; and a justice, upon good grounds of suspicion, proved on oath, may grant a search warrant. Any person to whom stolen property is offered, may seize the party offering it.

104. A person loitering at night and suspected of any felony against this Act, may be apprehended.

105. Mode of compelling the appearance of persons punishable on summary conviction.

106. Application of forfeitures and penalties on summary convictions.

107. If a person summarily convicted shall not pay, &c., the justice may commit him to gaol, there to be imprisoned only, or to be imprisoned and kept to hard labour, for any term not exceeding two months, where the amount of the sum forfeited or of the penalty imposed, or of both, (as the case may be) together with the costs, shall not exceed £5, and for any term not exceeding four months where the amount, with costs, shall not exceed £10, and for any term not exceeding six months in any other case, the commitment to be determinable in each of the cases aforesaid upon payment of the amount and costs.

108. Justice may discharge the offender, if he shall think fit, upon his making satisfaction to the party aggrieved for damages and costs.

109. A summary conviction shall be a bar to any other proceeding for the same cause.

110. Power of appeal in certain cases.

111. No conviction, or adjudication made on appeal, shall be quashed for want of form, or be removed by *certiorari*, and no warrant of commitment shall be held void by reason of any defect therein, provided it be therein alleged that the party has been convicted, and there be a good and valid conviction to sustain the same.

112. Convictions to be returned to the quarter sessions, and upon any information against any person for a subsequent offence, a copy of such conviction, certified by the proper officer of the Court, or proved to be a true copy, shall be sufficient evidence to prove a conviction for the former offence.

113. Venue, in proceedings against persons acting under this Act.

114. Stealers of property in one part of the United Kingdom who have the same in any other part of the United Kingdom, may be tried and punished in that part of the United Kingdom where they have the property.

115. Offences committed at sea shall be liable to the same punishment as if they had been committed upon the land in England or Ireland, and may be tried and determined in any county or place in which the offender shall be apprehended; and in any indictment the venue in the margin shall be the same as if the offence had been committed in such county or place, and the offence itself shall be averred to have been committed "on the high seas;" provided, that nothing herein contained shall alter or affect any of the laws relating to the government of her Majesty's land or naval forces.

116. Form of indictment for a subsequent offence. When the previous conviction is to be proved on the trial.

117. Fine and sureties for the peace may be required in addition to punishments under this Act.

118. Whenever imprisonment, with or without hard labour, may be awarded for any indictable offence under this Act, the Court may sentence the offender to be imprisoned, or to be imprisoned and kept to hard labour, in gaol.

119. Whenever solitary confinement may be awarded for any indictable offence under this Act, the Court may direct the offender to be kept in solitary confinement for any portion of his imprisonment, or of his imprisonment with hard labour, not exceeding one month at any one time, and not exceeding three months in any one year; and whenever whipping may be awarded for an indictable offence, the Court may sentence the offender to be once, twice, or thrice privately whipped.

120. Summary proceedings in England may be under the 11 & 12 Vict. c. 44, and in Ireland under the 14 & 15 Vict. c. 93, except in London and the Metropolitan Police district.

121. The costs of the prosecution of offences against this Act may be allowed.

122. Act not to extend to Scotland.

123. Act to commence on the 1st day of January, 1861.

Recent Decisions.

[*Equity, by* J. NAPIER HIGGINS, Esq., *Barrister-at-Law; Common Law, by* JAMES STEPHEN, Esq., *Barrister-at-Law.*]

EQUITY.

17 & 18 VICT. C. 113—COPYHOLDS—EXONERATION.

Piper v. *Piper*, 8 W. R., V.C.W. 541.

The above-mentioned Act was passed to alter the rule of courts of equity as to the burden of paying mortgage debts affecting devised or descended hereditaments. The Act enacts, that after the 31st of December, 1854, when any person shall die seised of land in mortgage, and such person shall not by his will or deed or other document have signified any other intention, the heir or devisee shall not be entitled to have the mortgage debt discharged out of the personal estate, but that the land shall be primarily liable. The Act contains a proviso that nothing therein contained shall affect the rights of any person claiming under or by virtue of any will, deed, or document made before the 1st of January, 1855. In the case before us, two points arose upon the construction of these statutory provisions. The general question in the case was, whether payment of a certain mortgage upon copyhold hereditaments was to be made out of the personal estate of the intestate mortgagor, or whether the copyholds were primarily liable for that purpose. The Vice-Chancellor was clearly of opinion that copyholds were included in the Act, which laid down distinctly that the estate mortgaged was itself to bear the burthen. But it was contended on behalf of the plaintiff who was the customary heir, that even if the Act does apply to copyholds, the plaintiff was protected by the proviso above mentioned. The proviso is, as we have seen, that nothing in the Act contained shall affect the rights of any person claiming under or by virtue of any will, deed, or document, made before the 1st of January, 1855. In this case, by an indenture of 1851, it was covenanted that a surrender of the copyholds should be made to the use of the plaintiff's ancestor, his heirs and assigns; and in the meantime that the hereditaments should be in trust for him and them. In 1852, the ancestor mortgaged the copyholds, and covenanted to surrender them to such uses as the mortgagee should appoint, with a proviso that on repayment, the surrender should enure to the use of the mortgagor, his heirs and assigns. He died in 1858, intestate, and the plaintiff, his customary heir, contended that as he claimed under the limitation to his ancestor his heirs and assigns contained in the deed of 1852, the title was within the proviso of the Act. The Vice-Chancellor, however, considered that to allow such a construction of the words "deed or document" in the proviso, would be to defeat the Act in a large number of cases; and declared that the plaintiff was not entitled to have the mortgage debt discharged out of the intestate's personal estate in exoneration of the copyholds.

COMMON LAW.

PLEA OF JUDGMENT RECOVERED FOR THE SAME CAUSE, EQUITY OF.

Barber v. *Lamb*, 8 W. R., C. P. 461.

There are, occasionally, cases in the books, the merits of which seem (so far as can be collected from the reports), to be so wholly and clearly on one side or the other, that it is difficult to understand how litigation arose, or could remain unchecked till the end of the proceedings. The present case appears to be one of this class. The declaration was on the money counts, and the plaintiff had already sued the defendant for the very same identical claims and causes of action in a consular court—had recovered judgment in such suit—and the defendant had satisfied such judgment by paying the amount thereby recovered, including the costs of suit. Notwithstanding all this, he was sued a second time in the Common Pleas in this country; and on his pleading that the plaintiff had already recovered judgment against him for the same cause, under the circumstances above mentioned, his plea was demurred to on two grounds:—1. That his plea did not show that the judgment therein referred to was final or conclusive between the parties, and, 2ndly, that it did not show that the causes of action now in suit were merged in, extinguished or affected by such judgment. The Court, however, satisfactorily disposed of both those objections (which, it may be remarked, were rather to the framing of the plea than to its validity in law) upon this principle, viz., that the plaintiff having selected his own tribunal, and got what was awarded to him by it, could not, on any principle of law, be allowed to go to another tribunal with the object of obtaining from it a decision more satisfactory to him. They accordingly gave judgment for the defendant.

PRACTICE—EXECUTION—EXPENSES OF PRIOR WRITS.

Salisbury v. *Ray*, 8 W. R., C. P. 462.

This case disposes of a mere point of practice, but it is one of considerable importance. It is, whether a plaintiff is entitled to endorse a *ca. sa.* not only with the expenses attendant on the execution of that particular writ, but with the costs of a prior *fi. fa.* issuing on the same judgment, and to which *nulla bona* was returned. This question (previously to the Common Law

Procedure Act, 1852,) was disposed of in the negative by the Queen's Bench, in the case of *Earp* v. *Satchell* (4 Q. B., 101), though the reported judgment is meagre and unsatisfactory. In the present case, the point was fully argued out before Chief Justice Erle; and it was urged (chiefly on the authority of the recent editions of Chitty's Practice) that section 123 of the Common Law Procedure Act, 1852, was designed to alter the previous law in this respect, and to allow the plaintiff the expense of a prior and unproductive writ of execution,—the words of the Act being that "in every case of execution the party entitled to execution may levy the poundage fees and expenses of the execution over and above the sum recovered." The Court, however, held that the question was determined by the word "the" inserted in the above provision before the word "execution," and that by it, the intention of the Legislature was conclusively shown to deal only with the expenses of the writ under which the money was actually paid. The effect of this decision is, that in a case such as the present, no change whatever in the practice as to the expenses of prior writs of execution, has been effected by the Procedure Act of 1852.

Affiliation Proceedings, Practice on.

***Hodges*, *Appellant*, v. *Bennett*, *Respondent*,** 8 W. R., Exch., 463.

This case on the law of affiliation orders, should be read in connection with that of *Reg.* v. *Berry*, of which an account was given in the last volume.* That case decided that the proceedings against a putative father given by 7 & 8 Vict. c. 101, and 8 Vict. c. 10, were not *in pœnam*, but rather in the nature of a civil suit, to impose on him a pecuniary obligation; and, as a consequence of this doctrine, it was held that irregularity in process might be waived by the conduct of the party proceeded against. The present case decides:—1. That a summons may be granted on the statement of the woman herself, without any corroboration whatever in any particular. 2. That the corroboration required by the statute is with regard to the facts leading to the conclusion of paternity *only*, and does not extend to other facts in the case, although material; such as (for example) proof of payment of maintenance money by the alleged father within twelve months, in a case where the application is made more than twelve months from the birth of the child.

Negotiability of Cheques, Law as to.

***Keene* v. *Beard*,** 7 W. R., C. P., 469.

This case affords strong confirmation of the observations made last week upon the recent decision of the Court of Common Pleas in the case of *Eyre* v. *Waller*. It was there said that in the eye of the law a cheque is a particular species of bill of exchange, but that some distinctions are observable between them. The Court of Exchequer, in the present case (reported just after that of *Eyre* v. *Waller*), lay down the law in much the same terms,—the precise point in dispute being whether the right of action on a note (as against the payee), passes to the holder by the payee's endorsing his name on the back. And Mr. Justice Byles (than whom there is no living authority of greater weight with regard to bills and notes) thus expresses himself:—"It appears to me that a cheque is in the nature of an inland bill of exchange, and is similar to it in many respects; one of the distinctions between them is, that a cheque is in the nature of an appropriation of money in the banker's hands, for the purpose of discharging a liability of the drawer to a third person; but it is not necessary that there should be money of the drawer in the hands of the drawee of a bill of exchange; another difference is as to staleness—delay in presenting the cheque to the banker does not prejudice the drawer, unless the banker has become insolvent in the meantime." The Court proceeded to hold, that notwithstanding these distinctions, a cheque was within the class of an ordinary bill of exchange, and that consequently the right to sue on it was transferable in the same way. Hence in an action against A., brought by the holder of a cheque made payable to, and endorsed *animo endorsandi* by A., judgment on the declaration (which was demurred to) was given for the plaintiff.

The Provinces.

Birmingham.—A meeting of the Council of the Chamber of Commerce was held on Tuesday, the 3rd instant, Mr. Arthur Ryland, vice-president, in the chair. Letters were read from the Board of Trade, and also from the Postmaster-General, acknowledging the memorial from this chamber for an alteration in the mail packet service between this country and the West Indies; but stating that the increase in the distance of the route suggested would prevent the wishes of the memorialists being complied with. The Vice-President reported that the various amendments upon the Attorney-General's Bankruptcy Bill suggested by the London Mercantile Law Committee, had been adopted by the Attorney-General, and that the Bill was progressing; also that the Bill for the Supervision of Marine Store Dealers, prepared by this chamber, had been introduced by Mr. Spooner, and had passed a second reading in the Commons, although it was lost in committee afterwards. The Vice-President also laid upon the table the draft of a Bill for the Amendment of the Copyright of Designs Act, which after due consideration, was approved of, and the President was requested to obtain its introduction into the House of Lords as early as possible. The Master and Operatives Bill was also considered, but it did not appear desirable to take any action thereon.

Bradford.—At the adjourned quarter sessions of the justices of the peace for the West Riding, held here on Tuesday, July 3, Mr. Elsley asked the Court what allowance should be made to an officer from York Castle, who had come to the sessions to prove a previous conviction against a prisoner? A letter from the Treasury stated that the usual allowance of 12*s.* 6*d.* per diem and first class fare to gaolers proving previous convictions should be reduced to 3*s.* 6*d.* per diem, with second class fare. Now, they could not live upon 3*s.* 6*d.* per day. The Chairman: But the question is whether we can make any other order. Mr. Elsley referred to a letter from Sir George Grey, written three years ago, allowing to a governor of a gaol for his loss of time, trouble, and expense on such occasions, 12*s.* per day for each day he might attend, to other officers 9*s.* per day, and for mileage a sum at the discretion of the Court. Mr. Shepherd, governor of the Wakefield gaol, here suggested that the magistrates might make any order they liked, the riding paying the difference. Mr. Elsley said a bill from the sessions there had been taxed, and where the clerk of the peace had allowed 12*s.* per day, the sum had been reduced to 3*s.* 6*d.*, with second class fare; that a man could not get refreshment in Bradford for 3*s.* 6*d.* per day; and that if the government would only allow 3*s.* 6*d.* the question was whether the riding would pay the witness the rest. The Chairman: Pay the officer the usual sum on the present occasion; it is utterly impossible that a man can come from York, and live here for 3*s.* 6*d.* per day.

Review.

A Treatise on the Principles of the Law of Evidence, with Rules for the Examination of Witnesses. By W. M. Best, A.M., LL.B., of Gray's-inn, Barrister-at-law. Third Edition. London: H. Sweet. 1860.

We know of no special branch of law which has been made the subject of so many formal treatises as the law of evidence. At the present moment we have concurrent editions, worked up to the most recent amendments of the law, of the well established treatises of Phillips, Starkie, Roscoe, Taylor, and Best; amongst which it would be as unnecessary as it would be invidious to attempt to assign the comparative excellence. With certain characteristic differences in their mode of treatment, they may all be ranked as treatises of the first order of merit; and the wants and tastes of the profession appear to furnish a sufficient patronage for all. Besides the above mentioned works treating of the subject as a whole, we have numerous others, as those of Archbold and Roscoe on criminal evidence, treating of the law of evidence as bearing on particular subjects only.

The cause of so great a demand for works on the law of evidence, must of course be referred mainly to the extensive application of its rules and doctrines, and their practical bearing on every subject of law. But the frequent choice of this subject by authors, seems to us to depend in some measure on other causes besides the mere demand for such works. Its capability of treatment in a methodical scientific and manner; the fact that the elements of the subject are to be sought for rather in the fundamental principles of human nature, than in any technical or artificial ordinances; the essentially popular and human interest thus involved in the investigation, always recommend it as an agreeable and worthy object of inquiry.

The general mode of treating of the law of evidence denotes

* 3 Sol. J., p. 325.

two distinct subjects included in that term: first, what is evidence, or the rules relating to the admissibility of evidence? secondly, the effect of evidence, or the rules according to which it is determined what facts are necessary or sufficient to establish a right or defence, or any particular legal result. It is most important to keep these two subjects distinct, and treat them separately; and much confusion of thought may be introduced by not doing so. We shall be able more clearly to estimate the character of Mr. Best's work, after explaining somewhat fully the distinction in question. The law of evidence, when taken in the former meaning, as consisting of the rules explanatory of what is legal evidence, is strictly a branch of the law of procedure. The rules of evidence constitute a medium through which alone the judge is permitted to receive facts; a natural fact which can penetrate this medium, is thereby capable of becoming a judicial fact, and forming the grounds of a judicial decision. If it is stopped in its passage by a rule of evidence, it remains a mere natural fact, and is not visible to the eye of the judge. The rule of evidence regulating the admission of facts, is a rule peculiar to the Court, and is a law of procedure or *lex fori*; nor is it the less so, although it may be a rule common to every court in the kingdom.

The law of evidence taken in the latter meaning, as explaining the effect of evidence, seems to comprise an exposition of the whole law in respect of its outward and visible manifestation. To explain the facts sufficient to prove a contract or an intention, is the only practical mode of explaining the contract, or the intention itself. There is no other way of apprehending or dealing with things in law, except by the facts which prove them. The law of evidence, therefore, taken in this sense, is as wide as the whole law relating to persons, property, and dealings. To apply the law of evidence in this wide sense, seems in some degree a misapplication of the term.

Now, on glancing through the above-mentioned treatises on evidence, it is seen that some of them treat of evidence almost exclusively in the latter meaning. They set forth, as completely as the endless variety of human circumstances permits, the different phases of fact under which legal rights and relations are capable of appearing. Roscoe, for example, after treating briefly of evidence in the former sense, in respect of its nature and admissibility, occupies the bulk of his work with his more particular object of explaining in detail what facts are necessary to support the case of a plaintiff or defendant in every trial before a jury. Phillips, Starkie, and Taylor also treat largely of the evidence in its effect, but more by way of illustration of the general principles according to which evidence operates, than exclusively with a view of exhibiting the special details of which legal results are composed. It is far from our intention to say that the law in respect of the effect of evidence is not in a sense capable of a general and scientific treatment. But the effect of evidence in general falls within what will be readily understood in English jurisprudence by the phrase "province of the jury;" and to that extent is incapable of being treated of on any other than empirical grounds. The admissibility of evidence is matter of law, but the effect of evidence is matter of fact. "Rules of law," says Mr. Best, "ought in general to be confined to the admissibility of proof, leaving its weight to the appreciation of the tribunal." The law, however, interferes largely to limit and define the province of the jury; it lays down what is sufficient evidence for a jury, what is insufficient, and what is compulsory; what juries may presume, what they may not presume, and what they must presume. To this extent the law is quite capable of generalization and of scientific treatment; and the matter of such law may be aptly treated of as the law of evidence, though obviously in a different sense from the law regulating what is evidence, which is strictly law of procedure.

Mr. Best's work is characterised amongst the other treatises which have been mentioned by a stricter adherence to the proper limits of his subject, if not by a more exact appreciation of those limits. He treats the law of evidence almost exclusively in its primary meaning as a branch of the law of procedure. He deals with evidence in respect of its effects only as far as it is capable of quite a general treatment, and so far as the law has provided general rules regulating the legal effects of evidence; as, for example, in the doctrines of direct and circumstantial evidence, and the rules relating to presumptions. The subject of his work is defined more exactly in his own words, as follows:—"The judicial evidence of any system of jurisprudence may be defined that branch of its adjective law which ascertains the nature, determines the admissibility, controls or modifies the effect of the evidence adduced before its tribunals; and regulates their practice relative to the offering, opposing, and receiving it." Mr. Best's treatise differs still more from others in being devoted to an inquiry into the principles only of the law of evidence. The design is not to lay down the rules of evidence for practice; but to examine the principles of the rules—to trace them to their sources, and shew their connexion. In this respect, indeed, it differs in character from nearly all English law literature. To exhibit the rules of law as founded on the essential principles of human nature and society, and not as a mere collection of arbitrary enactments, and thus to reconcile mankind to the restraints of law by showing their coincidence with the dictates of reason, is a noble task, but one which has not met with much favour or reward in the narrow and exclusive field to which the study and practice of English law has hitherto been limited. We feel all the more grateful to Mr. Best for his undertaking, and we have the less right to be critical respecting the manner of its performance, even were we so inclined, inasmuch as we have yet no standard of that kind of literary labour wherewith to compare it. It is a great relief to meet with a book which will reason with us on law upon other grounds than that of decided cases, and it is a pleasant labour to trace the connected line of argument on which the present work is based.

A judicial inquiry resembles any other inquiry in being a search made by the human understanding after truth. The inquiry in court is conducted with the same instruments and resources, and is engaged upon the same matters as the inquiry out of court. Hence, an analysis of the natural process of inquiry, unembarrassed by any technical or legal considerations, will be a first step towards a knowledge of the judicial process of inquiry, which is nothing more than the natural process restricted and modified by the principles of jurisprudence. The first object in such analysis is the instrument of inquiry itself, or the human understanding. The examination into the nature and faculties of the understanding encroaches or, at least, verges on the region of metaphysics whither we may here be pardoned not following our author. It is sufficient to say that he follows, with some important modifications, the theory and classification of the parts and faculties of the human understanding adopted by Locke. As a psychologist, Mr. Best leans more to the neo-eclectic doctrines of Victor Cousin than to the "sensualist" school of Locke.

Descending to the practical affairs of life, it is universally admitted that in human testimony truth greatly preponderates over falsehood. The sanctions of truth to which this preponderance is owing are traced to three sources: the natural sanction, the existence of which may be questioned as verging on the theory of innate ideas; the moral or social sanction, which is undoubtedly very powerful, but has occasionally a tendency to falsehood; and the religious sanction, which labours under the defect of not being of universal acceptance. The combined effect of these sanctions, however, is found generally to be very great. According to Bentham, "from the mouth of the most egregious liar that ever existed, truth must have issued at least a hundred times for once that wilful falsehood has taken its place." Mr. Best completes his introductory chapter on the essential nature of evidence by discussing witnesses in respect of their credit and capacity, the balance and qualities of testimony, and the various classifications of testimony commonly in use, as direct and circumstantial, original and derivative, pre-appointed and casual.

Having thus paved the way by ascertaining the nature of evidence, apart from any considerations of jurisprudence, he proceeds to explain the transition which makes it judicial. This branch of the subject seems to us capable of a brief summing up; although our author enters very fully and minutely into the several objects to be effected by judicial rule of evidence. In all the practical affairs of life, it is found absolutely necessary to limit the extent of our inquiries. We cannot suspend our judgment until we have exhausted every source of information; otherwise the judgment would become so hampered that action would become impossible. Every man in his private affairs exercises his own discretion in receiving or rejecting evidence, in limiting or extending his inquiries, in estimating his means of information, and arriving at a judgment upon them. By experience he acquires facility and skill in these processes, and perhaps even arrives at certain maxims and rules for his guidance, in which probably every prudent man of equal experience would coincide. The same process has to be effected for judicial evidence with still greater reason, inasmuch as the time of the judge is more important than that of an individual, and his speedy action more peremptorily called for. *Interest reipublicæ ut sit finis litium; ne lites immortales essent, dum litigantes immortales sunt.* What every individual must do for himself in his own private affairs, the law

does once for all for the judge. The rules of judicial evidence are the rules according to which he is bound to receive evidence, to estimate its effect, and draw the conclusions therefrom. The more this is done by rule, the less is left to the personal discretion of the judge. *Optima est lex, quæ minimum relinquit arbitrio judicis.* This necessity for judicial rules of evidence is put in a strong common-sense light in the passage cited by Mr. Best from a judgment of Baron Rolfe:—

"The laws of evidence, as to what is receivable or not, are founded on a compound consideration of what abstractedly considered is calculated to throw light on the subject in dispute, and of what is practicable. Perhaps if we lived to the age of a thousand years instead of sixty or seventy, it might throw light on any subject that came into dispute, if all matters which could by possibility affect it were severally gone into, and inquiries carried on from month to month as to the truth of everything connected with it. I do not say how that would be, but such a course is found to be impossible at present."

Our author confines the purely theoretical speculations concerning evidence in its natural and judicial form to the introduction. The body of his treatise is divided into four books, as follows:—

1. The English law of evidence in general.
2. Instruments of evidence.
3. Rules regulating the admissibility and effect of evidence.
4. Forensic practice and examination of witnesses.

The first book is the one of most general interest, giving a summary view of the English law in its principles, and an historical sketch of its rise and progress. The historical sketch is not quite satisfactory; but this must be attributed to the deficiency of materials, and not to the want of research in the author. It is impossible to make history where none exists. We have no reason to doubt the accuracy of the general view given by our author: viz. that most of the principles of evidence were known in early times and more or less acted upon, though not embodied in binding rules; and that the law of evidence as a system began to form about the middle of the seventeenth century. We can only wonder that rules of so striking and peculiar a kind should have left no more exact trace of their origin. In a rude and inexperienced age one might expect to find narrow restrictions imposed upon the administration of justice; but how came the judges of the seventeenth century to have followed so suspicious and illiberal a system, that it has become the glory of our law reformers to undo the greatest part of their labours?

The remaining books contain the deduction and explanation of the legal rules of evidence in detail. All the rules are here given and discussed in a practical form, and the leading cases relating to them are fully cited. This portion of the work will be found a sufficient general guide in practice to any one who is capable of making application of a rule according to its spirit; though it does not furnish the exact guidance for every step which is looked for in a mere digest of case law.

Within our present limits we must abstain from entering into further details, and must content ourselves with a few general remarks on the manner of treatment. The author's chief object has been to set forth the different legal rules of evidence as founded on principle, and to explain their deduction. With this view he discusses each leading principle in the style of a short essay, giving the arguments for and against it, and showing how the balance inclines in favour of its adoption. We prefer this portion of his work to the introductory portion, which is occupied with the didactic exposition of metaphysical and theoretical principles. The deduction of practical principles seems to be a task more congenial to his tastes, as well as more adapted to the field of his reading, and to his method of argument. Practical rules of evidence turn for the most part on questions of expediency; many considerations can be brought to bear on both sides; and often the judgment ultimately rests on a very nice balance of advantages. In these discussions, Mr. Best possesses a wonderful readiness in supplying arguments. His extensive reading not only in law, but in erudite literature generally, provides an abundant supply of maxims, illustrations, and authorities, drawn from all kinds of sources; and he takes a manifest pleasure in the facility with which he uses such weapons in support of his opinions. He at least always affords us ample means of either agreeing in or differing from his conclusions.

The striking peculiarity of Mr. Best's style will be obvious to every reader, and may not meet with unmixed approval. His habit is to prefer speaking in the language of a proverb, or maxim, or quotation from some celebrated authority, to using language of his own. This peculiarity is sometimes carried to such excess, that his work in some parts appears like a mosaic of learned fragments, to which his own composition forms merely the setting. The use of apt maxims and quotations no doubt gives weight. It is highly suggestive, and frequently serves to awaken the attention and curiosity of the reader. Reasonable objection may, however, be made to its excessive and indiscriminate use. In laying down law, it is necessary to speak with authority; but in science and morals we accept a statement for what it is worth, and not for the sake of its author. In such matters authority seems rather out of place, and Mr. Best is well able to explain his meaning more continuously and clearly in his own language. Another ground of objection is, that where quotations are introduced in great number, though some of them may serve well enough for authorities exactly in point, and some may pass muster as arguments, yet others will occasionally creep in which show mere resemblances of little value, and tend to confuse rather than enforce the argument. Perhaps also, an objection might sometimes be made, on behalf of the original authors. The extraction of argumentative passages from their works, and exhibiting them severed from the context, is not always a fair treatment of them. Their opinions are thus apt to receive a colouring from the new context, which they are debarred from explaining. It is a rule of evidence, that part of a written document cannot be put in severed from the rest. Mr. Best has evidently read extensively and profoundly; but he appears, like many authors who think for themselves, to have read with a somewhat predetermined object, and to have sought to assimilate to his own views whatever he met with in his studies. We see his agreement with all the celebrated writers whom he quotes; we do not see their points of disagreement with him.

Having thus expressed our candid opinion of this work, we have great pleasure in bearing testimony to having frequently heard it spoken of in the very highest terms of commendation from the bench. The present publication of a third edition shows the estimation in which it is held by the public; and it is no slight praise that the work is known among German lawyers almost as well as among English. The first edition had not long been published before it was translated into German, and recommended to continental jurists in a highly eulogistic preface by Professor Mittermaier, of Heidelberg. We can conscientiously give it our strongest recommendations to all students of law who are desirous of laying a rational foundation for their learning, and to all practitioners who are desirous of enlightening their practice in courts with the principles of reason and justice; and, in venturing to offer any criticisms upon a work of such great and acknowledged merit, we desire always to have it understood that we yield to none in an appreciation of its worth, and of the service which its author has rendered to the literature of our profession.

Obituary.

JOHN JERVIS, ESQ.

We have to record this week, the death of Mr. Jervis the Associate of the Court of Common Pleas, which took place suddenly, on the morning of Sunday, the 8th instant. The deceased was the son of the late Chief Justice of the Common Pleas (Sir John Jervis), and was called to the bar by the Honourable Society of the Middle Temple in January, 1849. On his father being raised to the bench in 1850, Mr. Jervis was appointed his associate, an appointment which, under a recent statute has become permanent during the life of the holder, and not subject, as formerly, to the death or retirement of the Chief Justice.

Court Papers.

Common Law Business at Judges Chambers.

11th July, 1860.

The following regulations for transacting the business at these chambers will be observed till further notice.

By Order.

Original Summonses only to be placed on the file and numbered.

Summonses adjourned by the judge will be heard at half-past ten o'clock precisely, according to their numbers on the Adjournment File; and those not on that File previous to the numbers of the day being called, will be placed at the bottom of the General File.

Summonses of the day will be called and numbered at a quarter to eleven o'clock, and heard consecutively.

Counsel at one o'clock. The name of the cause to be put on the Counsel File, and heard according to number.

Acknowledgments of Deeds will be taken at ten o'clock.

Affidavits in support of Ex parte applications for Judge's Orders (except those for Orders to hold to Bail), to be left the day before the orders are to be applied for, except under special circumstances; such affidavits to be properly endorsed with the names of the parties, the nature of the application, and a reference to the Statute under which any application is made, the party applying being prepared to produce the same.

Further time to plead will not be given, as a matter of course.

Births, Marriages, and Deaths.

BIRTHS.

BELT—On May 4, at Adelaide, South Australia, the wife of William Charles Belt, Esq., Barrister-at-Law, of a son.

COPPING—On July 10, the wife of Samuel Copping, Esq., solicitor, of a son.

CRIDLAND—On July 5, the wife of Joseph John Cridland, Esq., Solicitor, Lincoln's-inn-fields, of a son.

MURRAY—On July 8, the wife of William Powell Murray, Esq., Barrister-at-Law, of a son.

SMITH—On July 12, the wife of Charles Herbert Smith, Esq., Barrister-at-Law, of a daughter.

MARRIAGES.

ARNOULD—CARNEGIE—On May 28, Sir Joseph Arnould, one of the Judges of the Supreme Court, Bombay, to Anne Pitcairn, daughter of Major W. Carnegie, C.B.

COPEMAN—COLEMAN—On July 4, Charles Richard Copeman, Esq., Solicitor, of Liverpool, to Jane, youngest daughter of Edward Coleman, Esq., of 11, Montague-terrace, Bow-road, London.

KINGSTON—TAYLOR—On June 14, at Quebec, Frederick Kingston, Esq., of the Inner Temple, and of Montreal, to Harriett Esther, eldest daughter of Fennings Taylor, Esq., Deputy and Assistant Clerk of the Legislative Council of Canada.

PLACE—DORAN—On July 3, at Monkstown, Ireland, John Godfrey Place, Esq., to Phillis, second daughter of Joseph Henry Doran, Esq., Solicitor.

DEATHS.

AMBLER—On July 1, aged 31, Louisa, relict of James P. Ambler, Esq., Solicitor, Halifax.

JERVIS—On July 8, John Jervis, Esq., eldest son of the late Sir John Jervis, Lord Chief Justice of the Common Pleas.

NICKS—On July 6, aged 41 years, Thomas Nicks, Esq., Solicitor (and Registrar of County Court), Warwick.

SIMPSON—On July 29, Elizabeth, wife of William Simpson, Esq., Solicitor, Ballyclare.

TRAVERS—On July 4, Robert Travers, Esq., son of the late Robert Travers, Esq., Solicitor, Cork.

English Funds and Railway Stock.

(Last Official Quotation during the week ending Friday evening.)

	English Funds.	
	Bank Stock	..
	3 per Cent. Red. Ann..	93⅝
	3 per Cent. Cons. Ann.	93½
	New 3 per Cent. Ann..	93⅝
	New 2½ per Cent. Ann.	..
	Consols for account ..	93⅝
	Long Ann. (exp. Apr. 5, 1885)	..
	India Debentures, 1858.	96⅝
	Ditto 1859.	..
	India Stock	221
	India Loan Scrip.	..
	India 5 per Cent. 1859..	..
	India Bonds (£1000) ..	3 dis.
	Do. (under £1000).....	..
	Exch. Bills (£1000)...	1 dis.
	Ditto (£500)....	1 dis.
	Ditto (Small) ..	1 dis.
	Railway Stock.	
Shrs.		
Stock	Birk. Lan. & Ch. Junc.	78
Stock	Bristol and Exeter	107
Stock	Caledonian	93⅞
20	Cornwall	7
Stock	East Anglian	16½
Stock	Eastern Counties	56⅝
Stock	Eastern Union A. Stock	38
Stock	Ditto B. Stock	27
Stock	East Lancashire	..
Stock	Edinburgh & Glasgow.	78
Stock	Edin. Perth, & Dundee	30
Stock	Glasgow and South-Western	105
Stock	Great Northern	115
Stock	Ditto A. Stock	114½
Stock	Ditto B. Stock	134
Stock	Gt. South. & Westn. (Ireland)	114½
Stock	Great Western	71
Stock	Lancaster and Carlisle.	..
	Ditto Thirds..	..
	Ditto New Thirds..	..
Stock	Lancash. & Yorkshire	106½

	Railways—*Continued.*	
Shrs.		
Stock	London and Blackwall.	70½
Stock	Lon. Brighton & S. Coast	114½
25	Lon. Chatham & Dover	12½
Stock	London and N.-Wstrn..	102½
12½	Ditto Eighths	12⅝
Stock	London & S.-Westrn.	95½
Stock	Man. Sheff. & Lincoln..	41½
Stock	Midland	118½
Stock	Ditto Birm. & Derby	98
Stock	Norfolk	57
Stock	North British	63⅝
Stock	North-Eastn. (Brweck.)	98½
Stock	Ditto Leeds	52½
Stock	Ditto York	83½
Stock	North London	106
Stock	Oxford, Worcester, & Wolverhampton ..	46
20	Portsmouth	16
Stock	Scottish Central.....	117
Stock	Scot. N. E. Aberdeen Stock	31½
Stock	Do. Scotsh. Mid. Stk.	88
Stock	Shropshire Union	51
Stock	South Devon	46
Stock	South-Eastern	85
Stock	South Wales	68
Stock	S. Yorkshire & R. Dun	82
25	Stockton & Darlington	40½
Stock	Vale of Neath	52
	Lines at fixed Rentals.	
Stock	Buckinghamshire	98
Stock	Chester and Holyhead.	51½
Stock	Ditto 5½ per Cent...	126
Stock	Ditto 5 per Cent ..	115
Stock	East Lincoln, guar. 6 per Cent	140
50	Hull and Selby	114
Stock	London and Greenwich	65
Stock	Ditto Preference..	120
Stock	Lon., Tilbury, & Sthend ..	94
Stock	Shrewsbury & Hereld.	106
Stock	Wilts and Somerset ..	93

Heirs at Law and Next of Kin.

Advertised for in the London Gazettes and elsewhere.

BAKER, MARY ROBSON, formerly of Charlton, near Dover. Representatives to apply to Mr. Ley, 3, Great Carter-lane, Doctor's-commons, E.C.

ELLIS, JOHN, formerly of Ripon, Yorkshire, but late of Carshalton, Surrey, who died April 25, 1860, intestate. Next of kin to apply to Underwood, French, & Proctor, 1, Godliman-street, Doctor's-commons, E.C.; or Messrs. Drummond & Co., Solicitors, Croydon.

MATHIESON, JAMES L., formerly of Thornhill, Dumfriesshire. Himself, or, if dead, heirs at law, to apply to Mr. Johnstone, Solicitor, Thornhill.

MORE, FRANCIS ANTHONY (£9,000), formerly of Great Carter-lane, Doctor's-commons, and of Lower Phillimore-place, Kensington, who died on or about January 31, 1845. Next of kin to apply to Mr. Walthew, 27, Southampton-buildings, Chancery-lane. W.C.

ROBERTS, Lieut. CHRISTOPHER, R.N., formerly of 8, East-street, Walworth, Heirs at law to apply to Messrs. Roy & Cartwright, 4, Lothbury, E.C.

Unclaimed Stock in the Bank of England.

The Amount of Stock heretofore standing in the following Names will be transferred to the Parties claiming the same, unless other Claimants appear within Three Months:—

BAKER, CHARLOTTE ELIZABETH, Spinster, Rawston, near Blandford, Dorsetshire. £156 7s. 6d. New 3 per Cents.—Claimed by SIR EDWARD BAKER BAKER, Bart., acting Executor of the said Charlotte Elizabeth Baker.

DAWSON, CAROLINE MATILDA, Spinster, Manchester-square, £833 6s. 8d. Consols.—Claimed by WILLIAM RUSSELL, Esq., Accountant-General of the Court of Chancery.

DAWSON, CAROLINE MATILDA, Spinster, Manchester-square, £625 New 3 per Cents.—Claimed by WILLIAM RUSSELL, Esq., the Accountant-General of the Court of Chancery.

FELL, ELIZABETH, Spinster, Holborn-bars, £200 Reduced.—Claimed by said ELIZABETH FELL, Spinster.

TANNER, JANE, Spinster, Berwick-upon-Tweed, £200 New 3 per Cents.—Claimed by ISABELLA YOUNG, wife of William Young, administratrix of the said Jane Tanner, Spinster.

WEDDELL, ALEXANDER, Baker, Devonshire-street, Portland-place, £100 Consols.—Claimed by GEORGE WEDDELL, the acting executor.

London Gazettes.

Professional Partnerships Dissolved.

TUESDAY, *July* 10, 1860.

HILL, HENRY, & R. G. MATHEWS, Attorneys & Solicitors, 1, Bury-court, St. Mary Axe, London, by effluxion of time. June 30.

NORTH, JOHN, PALGRAVE SIMPSON, & FREDERICK NORTH, Attorneys & Solicitors, Liverpool, so far as respects the said John North. June 30.

FRIDAY, *July* 6, 1860.

WARNER, ISAAC, & CHARLES WARNER, Attorneys & Solicitors, Winchester, (I & C. Warner), by mutual consent. June 30.

Windings-up of Joint Stock Companies.

UNLIMITED, IN CHANCERY.

TUESDAY, *July* 10, 1860.

HERALD LIFE ASSURANCE SOCIETY.—Master of the Rolls order to wind up. June 30.

HERALD LIFE ASSURANCE SOCIETY.—The Master of the Rolls will, on July 25, at 12, appoint an Official Manager or Official Managers of this Company.

FRIDAY, *July* 13, 1860.

ALBION PORCELAIN AND BLEACHING CLAY COMPANY.—Petition to wind-up the above-named company, presented July 10, will be heard before Wood, V.C., on July 21. Tucker, Greville, & Tucker, Solicitors, 28, St. Swithin's-lane, London.

BIRKBECK LIFE ASSURANCE SOCIETY.—V.C. Kindersley proposes, on July 30, at 3, to make a call on all contributories for £1 10s. per share.

LONDON AND EASTERN BANKING CORPORATION.—V.C. Wood purposes, on July 26, at 12, to make a further call on all contributories in class A.; and also purposes, on October 31, at 12, to make a further call on all contributories in class B. for £100 per share.

PARAGON AND SPERO COAL MINING COMPANY.—V. C. Wood purposes, on July 27, at 12, to make a call on all contributories for £580 per share.

LIMITED IN BANKRUPTCY.

AUSTRALASIAN LAND AND EMIGRATION COMPANY (LIMITED).—Order to wind-up by Commissioner Goulburn, July 11. Same time William Pennell, 20, Basinghall-street, appointed Official Liquidator.

Creditors under 22 & 23 Vict. cap. 35.

Last Day of Claim.

TUESDAY, *July* 10, 1860.

BANKES, EDMUND GEORGE, Esq., Kingston Lacy, Dorsetshire (who died on or about Jan. 28, 1860). Rawlins, Solicitor, Wimborne Minster. Aug. 1.

BARRETT, JOSHUA, Esq., Cecil Lodge, Canonbury Park, St. Mary, Islington (who died Jan. 10, 1859). Terrell & Chamberlain, Solicitors, 30, Basinghall-street, London. Sept. 1.

BUSHELL, JOSEPH, Esq., Myerscough, Lancaster (who died on Jan. 22, 1860). Jackson, Solicitor, Lancaster. Oct. 1.

GLOVER, JOHN, Coffee-house Keeper, 53, Piccadilly, Middlesex (who died on April 14, 1860). Eyre & Lawson, Solicitors, 1, John-street, Bedford-row, London. Aug. 20.

GRAHAM, JOHN, late of Seaham Harbour, Durham, formerly a Collector in Her Majesty's Customs at Seaham Harbour (who died on May 12, 1860). J. J. & J. W. Wright, Solicitors, Seaham Harbour. Sept. 26.

KNOLLIS, Rev. JAMES, Clerk, Penn Vicarage, Bucks, and Maidenhead, Birks (who died on or about May 8, 1860). Western, Solicitor, 7, Great James-street, Bedford-row, London. Aug 20.

MARTIN-ATKINS, EDWIN, Esq., Kingston Lisle, Berks (who died May 5, 1859). Hobbs, Solicitor, Reading, Berks. Sept. 9.

MCLEAN, MALCOLM, Gent., Seaham Harbour, Durham (who died on Feb. 10, 1860). J. J. & G. W. Wright, Solicitors, Seaham Harbour. Sept. 26.

WOOD, ELIZABETH, Widow, Banwell, Somersetshire (who died on Feb. 3, 1855). Woolfryes, Solicitor, Banwell. Aug. 20.

WOOD, ROBERT, Gent., 37, Barrington-road, Brixton, Surrey, formerly of West Smithfield, London (who died on May 29, 1859). J. & W. Butler, Solicitors, 191, Tooley-street, London-bridge, S.E. Aug. 10.

FRIDAY, *July* 13, 1860.

ACTON, ELIZABETH, Widow, Brighton, Sussex (who died on April 1, 1860). Hill & Fitz Hugh, Solicitors, 1, Pavilion-parade, Brighton. Sep. 1.

BARRINGTON, HON. AUGUSTUS, formerly of Sackville-street, Piccadilly, and late of 19, Eaton-place, Middlesex (who died on May 16, 1860). Poole & Gamlen, Solicitors, 3, Gray's-inn-square, Middlesex. Sep. 1.

BRAND, EDWARD, a Lieutenant-Colonel, in the services of the Republics of Venezuela and New Granada (who died on August 7, 1859). Clarke & Morice, Solicitors, 29, Coleman-street, London. Sep. 1.

CREIGHTON, HARRIET, widow, 38, Cambridge-street, Hyde-park, Middlesex (who died on March 31, 1860). Hill & Fitz-Hugh, Solicitors, 1, Pavilion-parade, Brighton. Sep. 1.

ELLIOT, ELIZABETH, Widow, Carlisle (who died on Sep. 12, 1859). Hough, Solicitor, Fisher-street, Carlisle. Aug. 18.

ELLIOT, THOMAS, Surgeon, Carlisle (who died on Oct. 18, 1859). Hough, Solicitor, Fisher-street, Carlisle. Aug. 18.

FOWLER, VICE-ADMIRAL ROBERT MERRICK, late of Wallscote-house, near Reading (who died on May 25, 1860). Fladgate, Young, & Jacksons, Solicitors, 12, Essex-street, Strand, London. Oct. 10.

GOOCH, WILLIAM, Gent., Beccles, Suffolk (who died in or about Nov. 25, 1859). Copeman & Sons, Solicitors, Loddon. August 13.

HOOPER, WALTER REED, Gent., 17, Hamilton-street, Camden-town, Middlesex (who died on June 16, 1860). Avis, Solicitor, 25, Lincoln's-inn-fields, London. Sep. 12.

Creditors under Estates in Chancery.

Last Day of Proof.

TUESDAY, *July* 10, 1860.

HUGHES, ROBERT, Portmadoc, Carnarvonshire (who died in or about Jan. 1860). Morrison and Others *v.* Owen, V. C. Wood. July 31.

MAUNDER, JAMES, Labourer, Hookway Crediton, Devonshire (who died in or about Nov. 1859). Maunder and Others *v.* Maunder, V. C. Wood. July 25.

VERNON, WILLIAM, Builder, Wright's-road, Old Ford, Bow, Middlesex (who died in or about Aug. 1859). Conway *v.* Vernon and Others, V. C. Stuart. July 26.

FRIDAY, *July* 13, 1860.

BOND, JOHN, Tanner & Farmer, Ipswich, Suffolk (who died in or about March, 1846), Shuttleworth *v.* Bristo, V. C. Kindersley. Nov. 8.

EARLEMAN, RICHARD, Stone Mason, New Sarum, Wilts. Finch & Others *v.* Sanger & Others, V. C. Wood. Aug. 4.

LITTLE, WILLIAM, 41, Hill-street, Walworth, Surrey (who died in or about Feb. 1857). Little *v.* Little, M.R. Oct. 29.

PARKES, JOHN, Chain Manufacturer, Brierley Hill, Kingswinford, Staffordshire (who died in or about Nov. 1859). Parkes *v.* Parkes, M.R. Oct. 29.

PARSONS, JAMES, Gent., Prospect Cottage, Frome, Somersetshire (who died on or about Dec. 29, 1858). Bush & Another *v.* Mason & Others, V. C. Stuart. Nov. 2.

VIDEAN, CHARLES, Gent., Charing, Kent (who died in or about Nov. 1859). Langley *v.* Videan, V. C. Stuart. Oct. 30.

Assignments for Benefit of Creditors.

TUESDAY, *July* 10, 1860.

COXON, JANE, Spinster, Boarding & Lodging House Keeper, 6, Golden-square, St. James, Westminster, Middlesex. June 14. *Trustees*, T. Abbott, sen., Builder, Lower James-street, Golden-square; J. Bonthron, Baker, Regent-street, Piccadilly. *Sol.* Plowman, 7, Lincoln's-inn-fields, Middlesex.

EARLE, EDWIN, & JAMES CHADWICK, Calico Printers, Mitcham, Surrey (The Wandle Printing Company). June 21. *Trustees*, J. Higgin, Manchester; H. Matthews, Bayswater, Middlesex; E. Howarth, Bury-street, Salford. *Sol.* Reed, 3, Gresham-street, London.

KIRBY, SAMUEL, Broker, South-street, Sheffield Moor, Sheffield. June 23. *Trustee*, M. Howe, Confectioner, South-street, Sheffield. *Sol.* Pretson, Sheffield.

PALING, JAMES, Plumber & Gas Fitter, Nottingham. July 5. *Trustee*, B. Wheeler, Plumber, Nottingham. *Sols.* Parsons & Son, Nottingham.

FRIDAY, *July* 13, 1860.

BUCKLE, JOHN TOWNSEND, China, Glass, & Earthenware Dealer, Belfast, Antrim, Ireland. July 9. *Trustees*, C. W. Turner, Commercial Traveller, Stoke-upon-Trent; G. Grainger, China Manufacturer, Worcester. *Sol.* Beale, 15, Foregate-street, Worcester.

HUNT, JOHN, Wine & Spirit Merchant, Banbury, Oxfordshire. July 2. *Trustees*, J. Danby & W. Caless, Auctioneers, Banbury. *Sol.* Fortescue, Banbury.

JENNINGS, RICHARD CHAPMAN, Miller, Charing, Kent. June 7. *Trustees*, D. B. Green, Corn Factor, Ashford; R. Millgate, Miller, Charing. *Sol.* Norwood, Ashford.

WARD, JOSEPH, Boot & Shoe Maker, Kingston-upon-Hull. June 20. *Trustees*, J. W. D. Dyer, 20, George-street, Kingston-upon-Hull; J. Dawson, Tanner & Currier, 25, Lister-street, Kingston-upon-Hull; J. F. Poole, 23, Broad-street, Bloomsbury, Middlesex. *Sol.* Mends, Land of Green Ginger, Kingston-upon-Hull.

WILSON, JAMES GILL, TREVETT JOHN BLAKE, & WILLIAM STEEDMAN, Wholesale Warehousemen, Wood-street, Cheapside, London. July 10. *Trustees*, T. Taylor, 81, Watling-street; J. Flaxman, 16, Old Change; C. Coles, 7, Milk-street. *Sol.* Reed, 3, Gresham-street, London.

Bankrupts.

TUESDAY, *July* 10, 1860.

BEESLEY, THOMAS, Bottle Crate & Case Maker and Manufacturer, late of 3, Surrey-street, and of Clare-court, Strand, and now of Ranelegh-road, Thames-bank, Middlesex. *Com.* Holroyd: July 20, at 12, and August, 21, at 1.30; Basinghall-street. *Off. Ass.* Edwards. *Sol.* Chidley, 10, Basinghall-street, London. *Pet.* July 6.

BROOKES, THOMAS, Innkeeper, Birmingham, Warwickshire. *Com.* Sanders: July 23, & August 13, at 11; Birmingham. *Off. Ass.* Whitmore. *Sol.* Sill, Birmingham. *Pet.* July 6.

KNIGHTS, HENRY RUDD, Leather Merchant & Currier, 94, Bermondsey-street, Surrey. *Com.* Holroyd: July 24, at 12.30, and August 21, at 12; Basinghall-street. *Off. Ass.* Edwards. *Sols.* J. & J. H. Linklater & Hackwood, 7, Walbrook, London. *Pet.* July 10.

NOTT, JAMES, Jeweller, 25, Leadenhall-street. *Com.* Goulburn: July 20, at 1.30, and August 20, at 2; Basinghall-street. *Off. Ass.* Pennell. *Sols.* Taylor & Woodward, 28, Great James-street, Bedford-row. *Pet.* July 5.

PAYNE, THOMAS, Grocer & Tea Dealer, King's-heath, Worcestershire. *Com.* Sanders: July 23, & August 13, at 11; Birmingham. *Off. Ass.* Kinnear. *Sols.* Southall & Nelson, Birmingham. *Pet.* July 9.

PHILLIPS, JOHN, Dealer in Watches and Jewellery, 22, Penton-street, Pentonville, Middlesex. *Com.* Goulburn: July 23, at 2, and August 27, at 12; Basinghall-street. *Off. Ass.* Pennell. *Sols.* Boulton & Sons, 21a, Northampton-square, London. *Pet.* June 29.

STREITBERG, THEODORE, Walnut & Fancy Wood Merchant, 21, Wilson-street, Finsbury-square. *Com.* Holroyd: July 24, & August 21, at 2.30; Basinghall-street. *Off. Ass.* Edwards. *Sol.* Triston, 18, Barge-yard-chambers, London. *Pet.* July 9.

WHERRY, EDWARD, Grocer & Provision Dealer, Market Deeping, Lincolnshire. *Com.* Sanders: July 26, & August 16, at 11.30; Nottingham. *Off. Ass.* Harris. *Sol.* Brown, Market Deeping, or Bowley & Ashwell, Nottingham. *Pet.* July 6.

WILLIAMS, WILLIAM THOMAS, Draper & Tea Dealer, Gregory's-bank, Worcester. *Com.* Sanders: July 20, & August 9, at 11; Birmingham. *Off. Ass.* Whitmore. *Sol.* Smith, Birmingham. *Pet.* June 23.

FRIDAY, *July* 13, 1860.

ALEXANDER, JACOB ALEXANDER, China Dealer, Silversmith, & General Factor, 121, Fore-street-hill, St. John, Exeter. *Com.* Andrews: July 26, and Aug. 30, at 11; Exeter. *Off. Ass.* Hirtzel. *Sol.* Willesford, Exeter. *Pet.* July 12.

BATT, CHARLES LE, Messman, Exeter Barracks, Exeter. *Com.* Andrews: July 30, and Aug. 26, at 11; Exeter. *Off. Ass.* Hirtzel. *Sol.* Willesford, Exeter. *Pet.* July 10.

HARRIES, ARTHUR BELLAIRS, & WALFORD ARBOUIN HARRIES, Timber Merchants, Ship Owners, & General Merchant, Pembroke Dock, Pembrokeshire. *Com.* Hill: July 24, and Aug. 21, at 11; Bristol. *Off. Ass.* Miller. *Sols.* Rees & Davies, Haverfordwest; or Edwards & Nalder, Bristol. *Pet.* July 7.

LAMB, JOHN, Grocer, Pendleton, Lancashire. July 27, and Aug. 30, at 12; Manchester. *Off. Ass.* Hernaman. *Sol.* Boote, Brown-street, Manchester. *Pet.* July 10.

ORCHARD, FREDERIC GEORGE, & GEORGE FREDERICK CUNNINGTON, Rick Cloth & Tent Manufacturers, 107, Brick-lane, Old-street, St. Luke's, Middlesex. *Com.* Holroyd: July 23, and Aug. 28, at 1; Basinghall-street. *Off. Ass.* Lee. *Sol.* Underwood, 69, Chancery-lane, London. *Pet.* July 10.

PORTER, THOMAS, Chair & Cabinet Maker & Upholsterer, 8, Beauvoir-place, Kingsland, Middlesex. *Com.* Holroyd: July 28, and Aug. 28, at 1; Basinghall-street. *Off. Ass.* Lee. *Sols.* Sturt & Mason, 7, Gresham-street, London. *Pet.* July 11.

REWMAN, OSCAR, Merchant, 24, Martin's-lane, Cannon-street, London (Rewman Brothers). *Com.* Holroyd: July 24, at 11.30; and Aug. 21, at 12; Basinghall-street. *Off. Ass.* Lee. *Sol.* Billing, 33, King-street, Cheapside, London. *Pet.* July 9.

ROGERSON, JAMES TAYLOR, Cotton & Cotton Waste Dealer, Salford. *Com.* Jemmett: July 26, and Aug. 23, at 12; Manchester. *Off. Ass.* Hernaman. *Sol.* Boote, Brown-street, Manchester. *Pet.* July 4.

WANSLEY, PHILIP, THOMAS HAMMERSLEY, & FREDERICK HAMMERSLEY, Silk Manufacturers, Leek, Staffordshire (Wansley, Hammersley, & Co.) *Com.* Sanders: July 26, and Aug. 16, at 11; Birmingham. *Off. Ass.* Kinnear. *Sols.* Redfern & Sons, Leek; or Collis & Ure, Birmingham. *Pet.* July 5.

WINKS, JEREMIAH, Wine & Spirit Merchant, Commission & Insurance Agent, Newcastle-upon-Tyne. *Com.* Ellison: July 19, and Aug. 15, at 12; Newcastle-upon-Tyne. *Off. Ass.* Baker. *Sols.* Story, 16, Market-street, Newcastle-upon-Tyne; or Vincent, 4, Lamb-buildings, Temple, London. *Pet.* July 2.

YOUNG, WILLIAM GEORGE, Brewer, Bangor, Carnarvonshire. *Com.* Perry: July 24, and Aug. 14, at 11; Liverpool. *Off. Ass.* Cassnove. *Sols.* Dodge & Wynne, 7, Union-court, Castle-street, Liverpool; or Roberts, Barber, & Hughes, Bangor. *Pet.* June 28.

BANKRUPTCY ANNULLED.

TUESDAY, *July* 10, 1860.

GIBSON, JAMES, Manufacturer, Todmorden, Yorkshire. July 9.

MEETINGS FOR PROOF OF DEBTS.

TUESDAY, *July* 10, 1860.

BIRT, WILLIAM, Boot & Shoe Maker, Liverpool. July 31, at 11; Liverpool.—COATES, THOMAS, Linen Draper, 35, Bridge-road, Lambeth, Surrey. Aug. 1, at 11; Basinghall-street.—COLEMAN, THOMAS, Highwood, Yarpole, Herefordshire, & EDWARD WELLINGS, Sudlow, Salop, Bankers. July 31, at 12; Basinghall-street.—HUNTER, THOMAS, Grocer, Rochdale, Lancashire. July 31, at 12; Manchester.—WARBURTON, JOHN SLACK, & WILLIAM STEVENSON, Timber Merchants, Joiners & Builders (Warburton & Stevenson.) July 31, at 12; Manchester.

FRIDAY, *July* 13, 1860.

BINGHAM, GEORGE CASTLE, Boot Manufacturer, Nottingham. July 31, at 11.30; Nottingham.—COOK, LOUIS, Boot & Shoe Manufacturer, 42, Great Cambridge-street, Hackney-road, Middlesex. Aug. 3, at 11; Basinghall-street.—HARVEY, HENRY, Lamp & Chandelier Manufacturer (Henry Harvey & Co.), 39, Hatton-garden, Holborn. Aug. 3, at 1; Basinghall-street.—INNOCENT, THOMAS. Wholesale & Retail Grocer & Tea Dealer, 40, Bedford-street, Covent-garden, Middlesex. July 25, at 12; Basinghall-street.—ROSS, JOHN, Draper, Truro, Cornwall. Aug. 6, at 1; Exeter.

CERTIFICATES.

To be ALLOWED, *unless Notice be given, and Cause shown on Day of Meeting.*

TUESDAY, *July* 10, 1860.

EELES, JOHN, Stone Mason, East Butterwick, Lincolnshire. Aug. 1, at 12; Kingston-upon-Hull.—FREEMAN, SAMUEL, & JOHN CLIFFORD, Elastic Web Manufacturers, Leicester. July 31, at 11.30; Nottingham.—HODGE, JONATHAN, Silversmith, Watchmaker, Jeweller, & Ironmonger, Helston, Cornwall. Aug. 6, at 1; Exeter.—JERVIS, GEORGE, THOMAS LEESE, & WILLIAM HENRY BRADBURY, China Manufacturers, Longton, Staffordshire. Aug. 2, at 11; Birmingham.—JONES, CHARLES, Boot & Shoe Maker, 117, Deansgate, Manchester, and 5, Stockport-road, Altrincham, Chester. Aug. 2, at 12; Manchester.—KIRK, WILLIAM, JOHN WALE, & JOHN KIRK, Coal & Timber Merchants, Mountsorrel, Leicestershire. July 31, at 11.30; Nottingham.—SWIFT, DANIEL, Butcher, Deeping St. James, Lincolnshire. July 31, at 11.30; Nottingham.—TYLER, ROBERT LUKE, Wine Merchant, Spalding, Lincolnshire. July 31, at 11.30; Nottingham.

FRIDAY, *July* 13, 1860.

AULTON, SOPHIA ANNIE, Smallware Dealer, Nottingham. Aug. 7, at 11.30 Nottingham.—COOK, LOUIS, Boot & Shoe Manufacturer, 42, Great Cambridge-street, Hackney-road, Middlesex. Aug. 3, at 11; Basinghall-street.—HARVEY, HENRY, Lamp & Chandelier Manufacturer, 39, Hatton-garden, Holborn, Middlesex (H. Harvey, & Co). Aug. 3, at 1; Basinghall-street.—WALTON, GEORGE HODDINOTT, Linen Draper, Tailor, &

Grocer, Somerton, Somerset. Aug. 6, at 1; Exeter.—NOBLE, KERSHAW, Joiner & Carpenter, Ambler Thorn, Northowram, Halifax. Aug. 6, at 11; Leeds.—SLATER, JOSEPH, Stone Merchant, Leeds and Oulton, Yorkshire. Aug. 6, at 11; Leeds.—SMITH, WILLIAM, Ship Owner, South Shields, Durham.—YATES, JOHN, Oldbury, Worcestershire. Aug. 6, at 11; Birmingham.

To be DELIVERED, *unless* APPEAL *be duly entered.*

TUESDAY, *July* 10, 1860.

ALLEN, GEORGE, Grocer & Draper, Bardney, Lincolnshire. July 4, 3rd class.—BOUCHER, JOHN, Dealer in Timber, Blackwell, Derbyshire. June 2, 3rd class.—CRICK, DANIEL BISHOP, Builder, Leicester. July 3, 3rd class.—GRIFFITHS, EBENEZER KEMPSTER MACKENZIE, CORNELIUS PROUT NEWCOMBE, & FRANCIS THOMAS GRIFFITHS, Ship Owners, & Ship & Insurance Brokers, 66, Gracechurch-street, London, and James-street, Liverpool (Griffiths, Newcombe, & Co.) June 27, 3rd class, to E. K. M. Griffiths and F. T. Griffiths.—HALD, JOHN MACHIN, Paper Dealer & General Decorator, Sheffield. June 2, 3rd class.—KERSHAW, JOSEPH, & WILLIAM GEORGE KERSHAW, Stone Masons, Bricklayers, & Builders, Wakefield. June 1, 3rd class.—LOFTHOUSE, THOMAS, Coal Dealer, Sheffield. June 2, 1st class.—MERRIMAN, JAMES, Lace Manufacturer, Hyson-green, Nottingham. July 3, 2nd class.—POWNING, TRISTRAM, Grocer & Tea Dealer, Truro, Cornwall. July 4, 3rd class, subject to a suspension of 14 months, with protection after the first six months.—UNDERHILL, JOSEPH, Ironmonger, Plymouth, Devonshire. July 2, 2nd class.—ZELTNER, HENRY, & JOSEPH SHIERS, Fancy Trimming Manufacturers, Dale-street, Manchester (H. Zeltner.) July 3, 3rd class.

FRIDAY, *July* 13, 1860.

BIRT, WILLIAM, Boot & Shoe Maker, Liverpool. July 3, 3rd class.—BOWRA, MATTHIAS EDWARD, Manufacturer of Patent Elastic Spring Beds & Cushions for the permanent way of Railways, Bridge-street West, Birmingham. July 5, 3rd class.—CLARIDGE, JAMES EDWARD, Drover & Cattle Salesman, Hill Croome, Worcestershire, and Charlborough, Oxfordsire. July 5, 3rd class.—CONEY, HENRY, Builder, 3, Manchester-villas, Townsend-road, Regent's-park, Middlesex. July 6, 2nd class.—COPE, JOSEPH, China Manufacturer, Longton, Staffordshire, carrying on trade with Samuel Cope & Thomas Cooper, Longton. July 5, 3rd class to Joseph Cope.—DOWELL, JAMES, Licensed Victualler, Dudley-street, Birmingham, July 5, 3rd class, after a suspension of three months.—HARRIS, WILLIAM, Hay & Cattle Dealer, Stoke Prior, Worcestershire. July 6, 3rd class.—LILLY, DEODATUS RICHARD, Coach Builder, King Edward's-road, Birmingham. July 5, 3rd class.—STEVENS, WILLIAM, British Wine Merchant, 6, Three Crown-square, Southwark, Surrey. July 6, 1st class.

Scotch Sequestrations.

TUESDAY, *July* 10, 1860.

DUNNET, JAMES, Shipmaster, & Grocer or Shopkeeper, Thurso. July 18, at 12; Trotter's Caledonian Inn, Thurso. *Seq.* July 3.

EDWARD, ROBERT, Cattle Dealer, Skair, near Forfar. July 17, at 12; County and Commercial Hotel, Forfar. *Seq.* July 4.

KING, D., & COMPANY, Manufacturing Chemists, Camlachie, Glasgow, and DANIEL KING, Manufacturing Chemist, sole partner. July 17, at 12; Faculty-hall, St. George's-place, Glasgow. *Seq.* July 6.

RODGER, WALTER, Tobacconist, & Oil & Colour Merchant, Glasgow. July 17, at 12; Faculty-hall, St. George's-place, Glasgow. *Seq.* July 6.

TWEED, GEORGE TASH, Linlithgow. July 17, at 3; Star and Garter Hotel, Linlithgow. *Seq.* July 9.

TURNBULL & MURRAY, Messrs., Accountants, Commission Agents, and Woollen Merchants, as a company, Hawick, and GEORGE TURNBULL and JAMES MURRAY, as individuals. July 17, at 11; Tower Hotel, Hawick. *Seq.* July 5.

FRIDAY, *July* 13, 1860.

MURRAY, ARTHUR, Hotel Keeper, Turf Hotel, Princes-street, Edinburgh. July 17, at 2; Ship Hotel, East Register-street, Edinburgh. *Seq.* July 7.

We cannot notice any communication unless accompanied by the name and address of the writer.

*** Any error or delay occurring in the transmission of this Journal should be immediately communicated to the Publisher.*

THE SOLICITORS' JOURNAL.

LONDON, JULY 21, 1860.

CURRENT TOPICS.

A letter which appeared in this Journal a fortnight ago, complaining of unnecessary delay in the passing of orders at the Registrar's Office, has, we regret to say, exposed the writer to some observations from Vice-Chancellor Stuart, of a character which probably neither the writer nor any of our readers had the slightest expectation. The unquestionable facts are few, and may be very shortly stated. On the 9th of June, Sir J. Stuart, V.C., made an order upon further consideration of a short cause. The minutes were agreed upon on all sides, and there was no contention whatever between the parties. On the same day these minutes, signed by counsel, were left with the registrar; and there is no question that within a week afterwards, as far as the solicitors were concerned, the order might have been passed and completed. It was not completed, however, for twenty-four days, no doubt very much to the annoyance and inconvenience of Messrs. Harrison & Lewis, the plaintiff's solicitors, as well as the other solicitors in the suit. Thereupon, Mr. C. E. Lewis (a member of that firm) addressed to this Journal the letter in question, stating these facts, except that he omitted to mention the reason why a delay of four days had been necessary. That delay, in truth, was in no way attributable to him, and arose simply from the circumstance that it was requisite for one of the defendants to produce an affidavit of valuation, which was not produced until four days had elapsed after the minutes were left with the Registrar. With this trifling exception, every statement made by Mr. C. E. Lewis has passed through the most searching ordeal, and now remains, wholly unimpeached. The Registrar, however, it appears, made a formal complaint to Vice-Chancellor Stuart against Mr. Lewis, as a solicitor of the court, for the publication of his letter; and the Vice-Chancellor—we hope on the suggestion of the moment, and not as the result of lengthened consideration—directed the cause to be put in his paper, and the solicitor to be summoned to attend for the purpose of explaining his conduct. Mr. C. E. Lewis accordingly attended, without raising any question as to the propriety of such a proceeding, or the jurisdiction of the judge in such a matter. The facts already stated were proved by the affidavit of the managing chancery clerk of Messrs. Harrison & Lewis, and we have not heard that they were denied on behalf of the Registrar, who, indeed, made no appearance either personally or otherwise. The result was as inconvenient and inconclusive as might have been expected. The Vice-Chancellor, with warmth—and influenced very much, no doubt, by a dislike of any attack upon the Court, even in a subordinate department—in sweeping language condemned any appeal by solicitors even to the professional Press, in matters relating to the business of the Court, and in particular the proceeding of the gentleman then before him. Mr. C. E. Lewis submitted, with great manliness and force, that the fact of a man being a solicitor did not deprive him of the right of every Englishman, and that he had adopted the best if not the only remedy for the grievance complained of. The matter assumed the complexion of a warm debate rather than of a judicial inquiry, which indeed it never assumed or was intended to be. There was nothing like a decision that the registrar was right, or that Mr. Lewis was wrong, except so far as he had sinned by writing to a public journal, instead of complaining to the judge who had decided the cause. Now, notwithstanding the high respect due to the judicial office, and to the personal character of the Vice-Chancellor Sir John Stuart, it would be improper for us not to offer some observations upon the proceeding to which we have referred. No judge, at either side of Westminster Hall, is regarded by the profession generally as being actuated habitually by more highminded and honourable feeling than Vice-Chancellor Stuart; and it must be admitted that usually he treats solicitors practising before him with the courtesy to which they are entitled. It may be doubted, moreover, whether if he had been aware of the high professional reputation and personal character of the gentleman whom he summoned before him, not, as it appeared, for the purpose of vindicating himself, but of receiving extra-judicial censure, he would have adopted such a course. Notwithstanding all that has been said about solicitors being officers of the court and their unquestionable liability to judicial reproof in matters pending before it, no other judge has ever yet claimed the right to prevent a solicitor from making a legitimate complaint, not of a judge or of anything which would affect the rights or interests of any party in a cause, but only of the machinery of the Court; or from seeking a remedy for a grievance through the columns of the professional press. Nothing can be more certain than that the Vice-Chancellor had no jurisdiction to interfere in the matter; and probably Mr. C. E. Lewis, but for his respect for the Vice-Chancellor, would have declined, under the circumstances, to offer any explanation of what he had done. As we have already said, the course adopted by the Vice-Chancellor was simply inconclusive and inconvenient, and of itself shows how hopeless a task it would be for any solicitor to seek redress or any kind of satisfaction, upon a complaint made to the Court against one of its officials, who is called upon neither to prosecute for the offence, nor to defend himself against the accusation. In the present case the public had no means of judging between both sides or of comparing the decision of the judge (if such there was) with the necessary inference to be drawn from the facts; and although Mr. Lewis incontestably proved in open court that it took twenty days to complete a simple order at the registrar's office, so far as his relations with the Court are concerned, he has only succeeded in eliciting censure from the judge.

It ought to be borne in mind that the letter in question does not name any particular registrar, but leaves entirely open the question whether the delay was the fault of the individual or the system. Possibly Mr. Lewis may have thought, like many other clever men under similar circumstances, that the mystery was too deep for him to solve. But unless he was prepared to allege that the fault was the registrar's it would have been obviously improper for him to have brought the matter under the consideration of the Court. How is a solicitor to bring before a judge any complaint which he may have against the machinery of the Court? Is a solicitor at liberty and may he instruct counsel to move for an inquiry into the manner of passing orders at the Registrar's Office, or would the Vice-Chancellor have heard Mr. C. E. Lewis personally on such an application in open court? It is not probable that any such attempt on his part would have succeeded much better than his defence before the Vice-Chancellor on Saturday last.

We are especially anxious that nothing in these observations should be taken as in any manner re-

flecting on the Registrars of the Court of Chancery. We willingly recognise in them a very learned and accomplished body of officials. At the same time we cannot but think that the letter which appeared a fortnight ago in these columns will have the effect of generally expediting the business at the Registrars' Office. If so, Mr. Lewis will have thus secured a great benefit for the entire body of chancery practitioners, and he deserves the cordial thanks of the profession for his manly and dignified bearing throughout the whole affair.

The International Statistical Congress has held its sittings during the last week, under the presidency of the Prince Consort, attended by many foreign delegates, and a number of English statisticians versed in the subjects which have been brought before the various sections. The Congress, as a whole, has been a decided success, and we anticipate from this interchange of opinion much useful result, the correction of some insular prejudices, and a wholesome discipline for continental theorists. We think, however, that the Section in which we are more directly interested, that of judicial statistics, has been hardly as instructive as some others, notwithstanding the unflagging attention which it received from its illustrious President, Lord Brougham. We understand that the resolutions laid before the Section had been so ill-considered beforehand, and betrayed occasionally such a scanty acquaintance with English law and procedure, that a series of amendments became inevitable, and that the proceedings of the Section finally constituted a curiously tesselated work, in which crude proposals for a uniform international system of judicial statistics alternated with practical suggestions for a distinctly separate plan applicable to England solely. Had the author of the resolutions consulted some gentlemen more versed than himself in the details of judicial statistics, and in the leading features of our law, so as to present them free from mistakes and inaccuracies, the time wasted in fruitless discussion on amendments would have been saved to the meeting, and much more valuable results might have been attained. To Mr. Pitt Taylor it is chiefly owing that the resolutions were finally adopted in a presentable form, and to Mr. Commissioner Hill, that a saving clause was inserted at the end of the proceedings, which virtually overrides the whole scheme of uniform international statistics, and affirms the expediency of leaving every country to prove its return in the way most convenient to itself. It is satisfactory to find that the Section sobered down to this common sense view of the question; but it would have been more worthy of its dignity had its officers exercised more knowledge and discretion than to start an untenable theory at first.

The report and proceedings on a land register were, if possible, still more inconsistent. It may be questioned whether such a subject came within the verge of judicial statistics at all; but if it was necessary to bring it before the Section, care should have been taken that the author of the report was well acquainted with the history of the subject in this country. The resolution formally proposed turned out to be an enunciation of the almost exploded theory of a registration of deeds, and as such excited strong opposition from most of the English lawyers present, an amendment being finally carried by Mr. Hastings, affirming the expediency of delaying any decision on the question of registration until the Congress was possessed of fuller information on the system of land transfer in different countries. We have no doubt that the collection of such information would throw some useful light on the subject; and we entirely believe that the Congress is capable of effecting much good in reference to legal questions generally. Law and legislation must be founded on social requirements, and are therefore most safely based on statistical facts; only let care be taken that the opinions expressed at these meetings are the well-weighed conclusions of able and instructed men, such as Mr. Redgrave, to whom the nation is indebted for his labours in this field, and in whose hands we should have gladly seen the proceedings of the section of judicial statistics more entirely placed.

Our readers will see, upon reference to our parliamentary columns, that the Bankruptcy and Insolvency Bill has been at last withdrawn—a step which, in common with most people, we have been anticipating for some weeks.

Through pressure upon our columns, we are still compelled to postpone several articles.

CRIMINAL PROSECUTIONS IN ENGLAND.

In a former number we gave an outline of the mode in which criminal proceedings are conducted in Scotland and in Ireland. We shall now consider the system adopted in England, and the serious complaints to which of recent years it has given rise.

The principal objections to the English system are, first, that it affords no sufficient guarantee that real offenders shall be brought to justice, and, secondly, that it does not insure protection to innocent persons against malicious and frivolous prosecutions. There is a third objection of less importance, but still worthy of consideration; it is that the absence of duly authorized persons to undertake the prosecution of offenders, entails much unnecessary expense upon the public. These several causes of complaint have each given rise to a good deal of discussion; and we shall shortly consider each of them in turn.

With regard to the first, much valuable evidence was given before Mr. Phillimore's committee, which sat in 1855 and 1856. A variety of instances were brought forward by different witnesses in which it was clearly shown, that justice had miscarried though the want of a public prosecutor. Lord Brougham stated one of his own knowledge. It was the case of a wealthy man who under some temporary embarrassment had committed forgery. There was no question about his guilt, but no prosecution took place in consequence of the principal witness having been got out of the way. Every one at all acquainted with criminal courts knows that such occurrences take place. The prosecutor, no doubt, if any suspicion is entertained of him, is usually bound over in heavy recognizances to appear at the trial; but if any delay takes place before he is examined, justice may be easily defeated. There is no doubt, therefore, that the want of a public prosecutor favours the escape, in the first instance, at least, of wealthy criminals. Another class of cases in which justice is often defeated from the same cause, is, where the injured party is poor and friendless. Mr. Samuel Wilkinson, a solicitor in extensive practice in Staffordshire, who was examined before Mr. Phillimore's committee, furnished some striking instances in point. Being asked whether, in his opinion criminals escaped from the want of a person directly interested on the part of the public in the management of prosecutions, he replied, "I have no doubt of it. I have two or three cases in my mind at this moment; and particularly of a very serious robbery, in which a poor man was robbed of all the property he had in the world—a poor Jew. He had a box of jewellery, worth about £20, stolen from him, and from the want of some investigation at the time the prosecution failed. The parties were arrested, but the princi-

pal witnesses got out of the way, and they were tampered with by friends of the prisoners. I was concerned in the case, and I have, therefore, full means of knowing, and I am satisfied, that justice failed there entirely from the want of somebody to have taken charge of the case in the first instance."

The reason that justice is apt to be defeated where the injured parties are poor, is simply that attorneys are usually unwilling to take up cases in which they are by no means certain to obtain their costs. Indeed, in cases of difficulty and importance, they are almost certain to be losers. Of this, an instance was given by Mr. Greaves, Q.C., before the committee already mentioned. A murder, of a most atrocious kind, had been committed in a somewhat remote district, and after the inquest, one or two of the magistrates spoke to an attorney of standing in the neighbourhood, a Mr. Shepherd, as to the necessity of the case being properly prosecuted. In consequence of these representations, that gentleman was induced to take the matter up. After much trouble and expense, he got the necessary witnesses together, and after a long trial the prisoner was convicted and executed. Mr. Shepherd was warmly complimented by the presiding judge, on the ability and industry he had shown in getting up the case, but after receiving the amount allowed for costs he found himself £40 out of pocket. We may add, that the evil to which we now refer is not confined to the more remote parts of the country. Mr. Hobler, a solicitor of great experience at the Central Criminal Courts, informed Mr. Phillimore's committee, that if a man without money came to him, and asked him to take up his case he should decline to do so, on the principle that he could not afford to spend his time in investigating a matter which might prove fruitless. He added, that in one case of this description, which he had been induced to take up, and in which he obtained a conviction, he had lost nearly £300.

Another circumstance which tends to defeat justice is the fraudulent collusion which at times takes place in our criminal courts between attorneys for the prosecution and the defence. That such malpractices are of comparatively rare occurrence we fully believe; but that they do occasionally occur is unfortunately too true. Nay, it sometimes happens, although to the unprofessional reader it may appear incredible, that the same attorney sometimes acts both for the prosecution and the prisoner. We have, at this moment, indubitable proof before us, that a case of this description very recently occurred. In this case the prosecutor by an ingenious contrivance was kept out of the way until the grand jury were discharged, and as no witness appeared against him, the prisoner was acquitted. It is superfluous to remark that such practices are resorted to only by men who are a disgrace to their profession; but while we reprobate their conduct, we ought not to lose sight of the fact, that it is the absence of a recognised public prosecutor which tempts them to the commission of these gross irregularities.

There can be no doubt, therefore, that the want of such a functionary interferes with the due course of justice, by allowing, in various ways, the escape of criminal offenders. We have also said, that through this want, innocent persons may be, and frequently are, subjected to unnecessary annoyance and expense. We believe that this is more particularly the case in London. The late Recorder, Mr. Stuart Wortley, stated, that at the Central Criminal Court, "indictments and presentments by the grand jury are frequently made the means of oppression and extortion;" and his evidence was abundantly corroborated upon this point. We might give a variety of such cases, but every one of our readers must, in the course of his own experience, have known of instances where criminal proceedings have been taken against respectable persons for the sole purpose of extorting money.

In certain localities, a remedy has been sought for the evils which we have thus briefly pointed out, in the appointment of persons duly qualified to conduct public prosecutions. This plan has been adopted in four great towns, namely, in Liverpool, Manchester, Birmingham, and Leeds. In the former of these towns, a gentleman has been appointed by the corporation (with a salary, we believe, of £500 a year) whose sole duty it is to conduct the prosecutions within the borough, both at sessions and assizes. He performs all the business, in short, of prosecuting solicitor, by preparing the indictments, arranging the evidence, and instructing counsel at the trial. He is provided with a sufficient staff of clerks and assistants, but he is not bound to employ any particular counsel either at sessions or assizes. He selects them entirely at his discretion, the preference being of course given to seniority and ability; and we believe, that upon the whole the business is fairly distributed. The system pursued at Liverpool has now been in operation for many years, and it has worked very satisfactorily for the public. No scandalous collusions, between prosecuting and defending attorneys, can take place there; nor is it easy for any one to bring a case into court for the mere purpose of extorting money. Of course, in the event of the prosecuting solicitor declining to proceed with any particular case, it is open to any one to do so. But with such a check it is not probable that proceedings should be taken for the mere purpose of extortion. The system which has been found to work so well at Liverpool has been copied, more or less closely, by Manchester, Birmingham, and Leeds, and in all these towns it seems to have given general satisfaction.

We come now to the question of expense; and it requires very little reflection to satisfy us that under the present system a large amount of public money is annually thrown away. When we consider the number of unnecessary and frivolous prosecutions which take place in consequence of there being no check upon such proceedings, and when we consider the number of unnecessary witnesses who are summoned, and whose expenses must be paid not only in these but in other cases, we cannot but arrive at this conclusion. There were several witnesses examined before Mr. Phillimore's committee upon this point, and they all agreed that the want of a public prosecutor led to a great and unnecessary waste of public money. One of these, a gentleman in the Law department of the Treasury, estimated this loss at from £80,000 to £100,000 a-year. Others made the amount smaller, but all agreed that a large saving would be effected by the appointment throughout the country of duly qualified public prosecutors. In confirmation of this opinion we have only to look to Liverpool. It is notorious that the town council of that borough has made a considerable profit, amounting to some £1,500 a-year, by employing one person in the manner we have explained, to conduct the prosecutions at sessions and assizes. The fact came out before Mr. Phillimore's committee, and it furnishes conclusive proof of the economy as well as the efficiency of the Liverpool plan.

We have now touched upon the principal evils attendant upon our system of criminal prosecutions. We shall next consider the various plans that have been proposed for their removal.

The number of bankruptcies gazetted in the first five months of the present year was 418, being at the rate of 1,005 per annum. The average of the previous ten years was 1,090 per annum. In the London district 418 bankruptcies have been gazetted this year to the close of May; in the Liverpool, 18; in the Manchester, 22; in the Birmingham, 62; in the Leeds, 44; in the Bristol, 41; in the Exeter, 22; and in the Newcastle, 14.

CONCENTRATION OF THE SUPERIOR COURTS AND OFFICES.

REPORT.

(*Continued from p.* 721.)

51. Various Acts were subsequently passed, whereby charges of large amount were thrown on the surplus income arising from funds A. & B. Thus, in 1792, the Lord Chancellor was authorised to expend a sum not exceeding £30,000 out of such income in erecting new offices for the masters in chancery and their clerks, and for the secretaries of bankrupts and lunatics and their clerks, and fire-proof repositories for the records, &c., in the said offices, together with a public office for the suitors. Again, in 1810, a sum not exceeding £12,000 was authorised to be taken out of the same surplus income, and applied in building offices for the examiners, cursitors, clerk of the Crown, and clerks of the petty bag of the Court of Chancery. In addition to these charges, provision was from time to time made from the same source, for augmenting the salaries of the masters, registrars, and other officers, for paying the numerous additional clerks and others, required by the continually increasing business of the court in all its branches, for pensioning officers retiring after a certain duration of service, or incapacitated by any permanent infirmity, and for compensating the holders of abolished offices.

52. Notwithstanding, however, these numerous charges, fund B. continued rapidly to increase. For many years, the income of fund A. alone was more than sufficient to answer all the charges thrown upon the income of both funds, and the surplus was annually transferred to fund B., and invested and accumulated with the income arising from the latter fund. From the appendix to the Chancery Commissioners' Report of 1826, it appears that fund B. then amounted to £537,800 stock. Mr. Parkinson, in his evidence before the committee of 1848, stated that it had then reached the sum of £1,094,604 10*s.* 10*d.* stock. And from the evidence of Mr. Rogers and Mr. Johnson given before us, it appears that in 1852 it amounted to no less than £1,291,629 10*s.* 5*d.* stock, which had been purchased with cash amounting to £1,032,053 7*s.* 4*d.* At that date (1852), however, the further accumulation of this fund wholly ceased by the operation of the Act 15 & 16 Vict. c. 87, the 53rd section of which directed that the surplus income of funds A. and B., after meeting the annual charges to which those funds were then respectively liable, should thenceforward be annually carried over and added to the "Suitors' Fee Fund account," the nature and objects of which we shall presently explain. From the returns made by the Accountant-General of the Court of Chancery for the year 1858 and 1859 (an abstract of which will be found in the Appendix to this our Report), it appears that such surplus income for the former year (1858) was £55,789 18*s.*, and for the latter year (1859), £51,825 0*s.* 6*d.*

53. II. Having entered thus fully into the history of the "Suitors' Fund," we shall next proceed to explain the nature of the "Suitors' Fee Fund."

54. By the Act 3 & 4 Will. 4, c. 94, commonly known as Lord Brougham's "Chancery Regulation Act," extensive alterations were made in the proceedings and practice of the Court of Chancery. Amongst other things, the fees paid by suitors to certain officers of the court, and which had been theretofore retained by them for their own benefit, were directed to be thenceforward accounted for by such officers, and paid into the Bank of England to the credit of an account to be there opened in the name of the Accountant-General, under the title of "The Suitors' Fee Fund Account," and which fund we will, for the present purpose, call fund C. Out of this fund, various salaries and compensation allowances were directed to be paid, and it was provided that, if at the end of any year there should be a surplus standing to the credit of the account, after payment of such salaries, &c., the Lord Chancellor might order the same, or such part thereof as he should think fit, to be invested in Government securities, in the name of the Accountant-General, to be placed to a separate account, to be entitled, "Account of Monies placed out to provide for the Officers of the High Court of Chancery," and might in like manner order the accruing dividends on such securities to be carried to the same account, and to be re-invested and accumulated therewith. This second fund we will, for the present purpose, call fund D. On the other hand, in the event of there being at any time a deficiency in fund C. for payment of the salaries and other expenses charged thereon, the Lord Chancellor was empowered to direct the Accountant-General from time to time to make good such deficiency, by resorting to the interest and dividends to arise from fund D., or in case of need, by a sale of a portion of the capital thereof; and further, in case the capital and interest of fund D. should be at any time insufficient to meet any such deficiency, then the Lord Chancellor might direct the Accountant-General from time to time to resort to the income of the "Suitors' Fund" (funds A. and B.), for the purpose of making good the deficiency.

55. For several years after the passing of this Act, there was a considerable annual surplus on the "Suitors' Fee Fund Account" (fund C.), arising from the excess of fees received from the suitors, and paid over to that account, beyond the charges thrown upon it, and this, notwithstanding large reductions in the fees from time to time effected by successive orders of the Court. This surplus was carried over to a separate account, and invested, as directed by the Act, and the sums so invested constitute fund D., which consists of the sum of £201,028 2*s.* 3*d.* stock, and is the second of the three funds to which we have above referred to, as, in our judgment, properly available in aid of the erection of courts and offices.

56. In 1852 another Act was passed, the 15 & 16 Vict. c. 87, intituled "An Act for the Relief of the Suitors of the High Court of Chancery." By this Act, fixed salaries were substituted for fees throughout all the offices of the court; the Lord Chancellor was empowered to vary, reduce, or abolish, any of the existing fees payable in relation to the proceedings of the Court, to substitute other fees in lieu thereof, and to direct that all fees should be collected by means of stamps, of which the Commissioners of Inland Revenue were to keep separate accounts, and to pay the monies received and collected in respect thereof into the Bank of England, to the credit of "The Suitors' Fee Fund Account." The brokerage theretofore received by the Accountant-General was to be accounted for and paid by him to the credit of the same account (an additional salary being allowed to him in lieu thereof). Some offices were altogether abolished, and the emoluments of others reduced; and provision was made for giving compensation to the holders of such offices, which compensations, together with various superannuation and retiring allowances, were charged upon and directed to be paid out of the income of the "Suitors" Fund, viz., funds A. and B. By the 53rd section of the Act, the surplus income arising from the two last-mentioned funds (A. and B.) was no longer, as before, to be invested and accumulated, but was to be carried over to "The Suitors' Fee Fund Account" (C.), and to become part thereof. And, lastly, it was provided that the annual surplus (if any) of fund C. might be invested in Government securities, and added to fund D., and that any deficiency in fund C. might, from time to time, be made good out of the income or capital of fund D.; but the power to supply such deficiency by a resort, in case of need, to the income of funds A. and B., was not included in this, as it had been in the Act of 1833.

57. Since the passing of this Act, no addition has, or could have been made to fund B., and no addition has, in fact, been made to fund D. The surplus interest, arising from the stocks and securities constituting the three funds A., B., and D., has been from year to year carried over to fund C. (which is entirely an income account), and the surplus of this latter fund has, to a considerable extent, been employed in the further reduction of fees of Court, though there is still a surplus on the whole income, as we shall hereafter more particularly show.

58. From the evidence of Mr. Rogers and Mr. Johnson, and from the annual returns made by the Accountant-General, and laid before Parliament, for the years ending 1st October, 1858 and 1859 (of which an abstract will be found in Appendix D.), the following appears to be the state of these respective funds:—

FUNDS A. AND B.

1858.

	£	s.	d.	£	s.	d.
Total income, including balance of cash brought from preceding year				137,783	9	10
Total payments, viz., salaries, pensions to retired officers, and miscellaneous charges	30,216	0	11			
Compensations, in respect of abolished offices, including terminable salaries	31,370	11	3			
				61,586	12	2
Surplus				76,196	17	8
Of which was carried over to Fund C.				55,789	18	0
Leaving balance of cash to credit of account on 1st October, 1858				£20,406	19	8

	£	s.	d.
1859.			
Total income, including balance of 1858	135,636	1	8
Total payments, viz., salaries, &c. £33,184 5 5			
Compensations 30,724 4 11			
	63,908	10	4
Surplus	£71,727	11	4
Of which was carried to Fund C.	51,825	0	6
Balance of cash 1st October, 1859	£19,902	10	10

FUND C.

	£	s.	d.
1858.			
Income			
Balance brought from preceding year	68,510	5	3
Fees levied on suitors	101,969	5	8
Dividends of Fund D.	5,880	1	5
Brokerage paid over by Accountant-General	4,078	18	7
	180,438	10	11
Brought over from Funds A. and B.	55,788	6	0
	£236,226	16	11
Payments, viz.:—			
Salaries, rents, expenses of copying and miscellaneous charges £112,053 15 6			
Compensations 44,162 14 2			
	156,216	9	8
Balance of cash	£80,010	7	3

	£	s.	d.
1859.			
Income.			
Balance as above	80,010	7	3
Fees from suitors	97,984	4	0
Dividends of Fund D.	5,905	4	0
Brokerage	4,646	1	3
	188,545	16	6
Brought from Funds A. and B.	51,825	0	6
	£240,370	17	0
Payments.			
Salaries, &c. £13,141 2 0			
Compensations 43,672 1 4			
	156,813	3	4
Balance of cash	£83,557	13	8
Excluding the balances brought from previous years, it seems that, in 1858, the total income of Fund C. from all sources (including the amount of cash brought over from Funds A. and B.) was	167,716	11	8
and the total expenditure	156,216	9	8
Leaving a surplus income of	£11,500	2	0

In the year 1858-9 there was some falling off in the fees received from suitors, a diminished transfer from funds A. and B., and some increase in the payments for salaries, in consequence of which,—

	£	s.	d.
the income was only	160,360	9	9
while the expenditure was	156,813	3	4
thus reducing the surplus income to	£3,547	6	5

Again, treating all these funds as, for practical purposes, one entire fund, and excluding, as before, the balances of previous years,—

	£	s.	d.
the aggregate income for 1858 was	226,486	7	9
and the aggregate expenditure, viz.,			
Salaries, pensions, &c. £42,269 16 5			
Compensations 75,533 5 5			
	217,803	1	10
leaving a clear surplus income of	£8,683	5	11

while, owing to the circumstances above adverted to, in 1859,—

	£	s.	d.
the entire income was	223,764	11	3
and the expenditure, viz.,			
Salaries, &c. £46,325 7 5			
Compensations 74,396 6 3			
	220,172	13	8
the surplus of income being	£3,042	17	7

59. III. It remains for us to explain the nature of the third fund to which we have above referred, as being in our judgment properly available for the proposed objects. It consists of a sum of £88,254 5*s.* 1*d.* cash, forming part of the public balances now standing to the credit of the Paymaster-General at the Bank of England, and wholly unappropriated.

60. From the evidence of Mr. Seton, it appears that, under the authority of certain recent Acts of Parliament, an account of all fees received from suitors in the superior courts of law is annually rendered to the Treasury by the masters and other officers of the several courts, and the net amount of such fees, after deducting certain rents, salaries, and other expenses incurred in the respective offices, is paid over to the Treasury. A separate account is kept of the monies so received, and of other payments subsequently made thereout by the Treasury, and the net surplus thereof is shewn by Mr. Seton to have amounted, on the average of the last six years, to upwards of £14,000 per annum. The sum of £88,254 5*s.* 1*d.* above referred to as Fund E., is the aggregate amount of such surplus from the year 1852, to the 1st of January, 1860, and that sum now stands to the credit of an account called "The Fee Fund Account, Superior Courts of Law." For the fund thus accumulated, and for the monies hereafter to be received from the same source, no appropriation whatever has hitherto been provided by Parliament.

61. We have felt it necessary to enter thus fully into the nature and history of these several funds, the mode in which they have been from time to time dealt with, the conditions under which they are held, and the charges and incumbrances to which they are respectively liable, because, without such a statement, it appeared to us that it would be impossible to arrive at any satisfactory conclusion on the practical question, whether they may, or may not, be made to supply the means of effecting the objects recommended in the earlier part of this our report. To that question we shall now address ourselves, and in so doing our first inquiry will be, whether there is, in principle, any valid objection to the appropriation of these funds to the proposed objects? that is to say, whether such appropriation would involve the violation of the rights of property, or of any other existing right, legal, equitable, or moral? If it would, there is, of course, an end of the question, and the discussion of points of detail would be an idle waste of time and labour. If it would not, we may then fitly proceed to consider in what manner, to what extent, and subject to what conditions and limitations, those funds may, with your Majesty's sanction, and by the aid and under the authority of Parliament, be made available for carrying into effect the contemplated scheme.

62. For all practical purposes, indeed, the scope of our inquiry may be in a great measure limited to the first of the three funds in question. Upon the applicability of the "Profit" or "Accumulation" Fund (B.), the controversy substantially turns, and unless that fund can with justice be so applied, it would be superfluous to prosecute the inquiry with regard to the remaining funds. In that case, our reply to the question which your Majesty has referred to us, as to the existence of adequate means for the accomplishment of the desired end, must necessarily be in the negative.

63. The first question, then, which we have to consider is whether the appropriation of fund B. in the mode proposed would involve the violation of any rights of property? A majority of us are clearly of opinion that it does not, for the following reasons.*

64. It has been submitted to us, that this fund (B.) belongs to the suitors of the Court of Chancery;—that it is, in truth, a part of their, the suitors' fund; that it has been produced entirely by the profitable employment of their money; and consequently that, if not as a matter of strict legal right, yet upon principles of justice, and by analogy to the recognised doctrines of courts of equity, it should be considered as their property. In support of this view, it has been suggested that as regards money paid into court in the course of litigation, the Court of Chancery stands towards the suitors in the same relation in which an ordinary trustee stands towards his *cestui que trust*; and that, as a trustee having trust money in his hands, and employing it to a profit, must account for such profit to the *cestui que trust*, so that the Court must account to the suitors for the profit which it (the Court) has made by the investment of the suitors' cash.

65. We are of opinion that there is no foundation for this argument, and that the supposed analogy on which it rests wholly fails. The Court of Chancery can, in no proper sense of the term, be considered in the light of a trustee for the suitors. It exists for the purpose of administering justice between litigants, and lest, whilst their rights are under investigation, the money which may be the subject of litigation should

* To what extent the opinion of Vice-Chancellor Wood differs from that of the other Commissioners will appear from his observations at p. 1 in the Appendix.

be wasted by the actual possessor, whose possession may ultimately turn out to be wrongful, the Court orders it to be impounded and placed in secure deposit, to abide the eventual decision. When so deposited, the parties themselves may apply to have it invested, and if they do they bear the loss or take the profit of the investment, as the case may be. If they do not, the Court (which, as regards the possession of the money, is in the position of a mere stakeholder), transfers the stake to the successful litigant, when the litigation is terminated, without diminution on the one hand, and without increase on the other.

66. Independently, however, of the question as to the position of the Court of Chancery as a trustee, it appears to us that the course of the preceding narrative furnishes, in itself, the most complete answer to any claim which could be put forward to Fund B., as being the property of the suitors. It is clear that, previously to 1725 the suitors' cash deposited with the Masters of Court was employed by them for their own benefit, and that the profit derived from that employment constituted a portion of their official remuneration. But when, in the year 1725, that state of things was put an end to, and the office of Accountant-General was created, the money of the suitors, not required to meet current demands, remained in the Bank of England (to use the language of the statutes) "dead and unemployed." The Court had no power to employ it, or, except at the instance of the suitors themselves, to direct its investment. It was not until the year 1739 that the Legislature, for the first time, interfered, and (by the Act of the 12 Geo. 2, c. 24) gave to the Court a power for that purpose which it did not before possess, limited, however, to the specific and definite sum mentioned in the Act. When that sum was invested, the power of the Court was exhausted, and the suitors' cash again accumulated in the coffers of the Bank of England, until a further power, similarly defined and limited, was given by a succeeding Act. And thus, by a succession of statutes, extending over the period from 1739 to 1852, the Fund A., representing the suitors' invested cash, has been, as we have shown, gradually formed. The formation of this fund, therefore, was not the act of the Court, exercising its inherent functions for the benefit of the suitors, but was the result of special legislative interference; and although each separate investment was made by an order of the Court, yet those orders were issued in pursuance only of a delegated authority, and for a specific and limited purpose.

67. But in what manner did the Legislature deal with the fruits of these investments? Did it direct that the income should follow the capital, and that the profit should belong to those, by the employment of whose money such profit had been produced? Quite the reverse. It from time to time, and on the occasion of each investment, specially appropriated the income arising therefrom to such objects and purposes as appeared suitable to the particular exigencies of the moment. Thus, at one time the expenses of the Accountant-General's office were to be provided for,—at another, the salaries of the Masters were to be increased,—at another, new buildings were to be erected for the transaction of the varied business of the Court,—at another, pensions were to be given to incapacitated, or retiring officers, and compensations to be provided for the holders of abolished offices; and in one remarkable instance, which has been specially noticed in the preceding narrative, the profits of the suitors' cash were employed, to the extent of £21,000 and upwards, in making good to the income of the Rolls' estate the dilapidations which had been occasioned therein, either by the laxity of Parliament itself, in the creation of leasing powers, or by the unscrupulous manner in which those powers had been exercised by successive Masters of the Rolls. And when all these various purposes had been answered, how did the Legislature deal with the surplus profit? Having from time to time declared the same to be "unappropriated," it directed this unappropriated income to be carried over to a distinct and separate account, and to form a new fund, the income of which was, in its turn, applied to similar purposes. Thus it is that fund B. has been gradually formed, and this latter fund is as much the child and creature of legislation, as fund A., from which it was originally derived. It appears to us, that these various dealings are entirely inconsistent with, nay utterly destructive of, the theory that the profit made by the employment of the suitors' cash belongs to the suitors. They show, on the contrary, that Parliament, by whose direct interference alone that profit was made, expressly reserved to itself the right of directing the mode in which it should be applied, and the purposes to which it should be from time to time appropriated. The profit was made, not by the Court of Chancery, but by Parliament, and Parliament determined, for itself, the purposes for which the same should be employed.

68. But, further, as the fund in question is alleged to be the property of the suitors, we must proceed to inquire to what suitors it so belongs? The cash from time to time invested was not the cash of individual suitors, but such portion only of the general floating balance of suitors' cash, then lying dead and unemployed in the Bank of England, as was not required to answer current demands. The income arising from such investments was uniformly directed to constitute part of the "common and general cash of the suitors," and to be promiscuously used and applied to answer the purposes to which it was destined. All traces of individuality are therefore lost, and no suitor could point to, and, as it were, earmark his own cash, and affirm that such cash had been the specific subject of investment and profit. It is in evidence before us that, in 1826, fund B. amounted to £537,800 stock. This stock had been the produce of investments of the surplus interest of fund A. made at antecedent periods, from 1739 downwards. Upon what principle, then, could the suitors of 1860 claim to participate in the profits made by the employment of the cash of other suitors prior to 1826? Between the year 1739 and the present time, cash to the amount of some hundreds of millions has been paid into and drawn out of court by suitors; and yet, during the whole of this long period, not one single suitor has ever received anything beyond the cash actually paid into court, or has claimed any portion of the profit to which we are referring. It appears to us that this fact conclusively proves, that such profit was never considered to be the property of the suitors, either by the Court, or by the suitors themselves.

69. But it has next been suggested to us, that although individual suitors may have no property in fund B., and no right to interfere with its appropriation, yet that the collective body of suitors have just ground for objecting to its application to any purposes, other than those by which they, as a body, are immediately benefited; and consequently, that the application of any portion of fund B. to the erection of common law courts and offices would be a violation of their equitable and moral rights and claims. This argument is rested upon two grounds; 1st, that the fund in question, having been derived exclusively from the monies of the suitors of the Court of Chancery, ought not to be employed except for the benefit of the suitors of that court; and, 2ndly, that Parliament having uniformly and exclusively dedicated the income, from the surplus of which the fund in question has arisen, to purposes connected with the Court of Chancery, has hereby impressed the fund with a species of trust, which would be violated by the application of any portion thereof, otherwise than for the benefit of the suitors of the Court of Chancery.

70. We have given to this argument all the consideration to which the learning, character, and station of the eminent person by whom it has been propounded justly entitle it; but after mature reflection we find ourselves unable to concur therein.

71. In the first place, it appears to us to be founded upon a distinction between courts of equity and courts of law, for which there is, in our judgment, no just or solid foundation. We cannot but consider that all the courts, whether of law or equity, including therein the Courts of Divorce and Probate, and the High Court of Admiralty, and all the branches of each court, whether judicial or administrative, form together one great system for administering justice, in which all the subjects of the realm have a common interest, and to which, therefore, any funds, from whatever source derived, if those funds are at the free disposal of Parliament, may be legitimately applied. And we think that this may be more confidently affirmed, at a time when, as we have already observed, the tendency of legislation is to assimilate the courts of law and equity, by an attribution to each of powers and functions hitherto exercised exclusively by one of them.

72. If it could, with justice, be assumed that the fund in question had arisen exclusively from the profitable employment of the monies of the suitors of the Court of Chancery, yet, if it is not the property of those suitors, and cannot be claimed by them, we are unable to perceive on what reasonable grounds the discretion of Parliament should be fettered as to the mode of its future application. It has been justly observed by one of the witnesses examined before us, that the suitor in Chancery to-day, may be a suitor at law to-morrow, and that next week, or next month, his property may become the subject of disposal by the Court of Probate. The due and proper maintenance of all the courts is, therefore, an object in which all

suitors have a common interest. If the fund in question absolutely belongs to the suitors of one particular court, it cannot be alienated from them without a breach of the rights of property. If it does not belong to them, but is the mere child and creature of legislation, surely it is for Parliament in its wisdom from time to time to decide in what manner, and for what purposes, it can be most usefully employed. It is true that, in times past, this fund has been exclusively employed for the benefit of suitors in Chancery; but this may have been, because the exigency of the moment rendered such an application thereof necessary or expedient. Circumstances, however, have now changed; new and varied exigencies have arisen; and the wants of the present day urgently call for a different appropriation.

73. The broad principle which we have thus stated, that is to say, the substantial identity of all the courts, as component parts of one general system for the administration of justice, appears to us to have been emphatically asserted, and practically enforced and acted upon by Parliament, on several of the occasions which have been adverted to in the preceding narrative. Thus when, in 1725, it was found that the money of the suitors of the Court of Chancery had been fraudulently misappropriated by certain masters of that court, in what manner, and at whose expense, were those suitors relieved? By the imposition of a tax, to which every suitor in a court of law, from the highest tribunals of the realm to the humblest court for the recovery of small debts, and every suitor in the courts ecclesiastical, was called upon to contribute. Again, when, in 1736, a further deficiency was discovered in the cash of the suitors in chancery, caused by the fraudulent conduct of another of the masters, the tax on the suitors at law and in the ecclesiastical courts was continued for a further term, in order to make good this deficiency. Once more, when, in 1749, it was found that the revenue of the office of Clerk of the Hanaper (an office exclusively belonging to the Court of Chancery) was insufficient to cover its expenses, and that the salaries and allowances payable out of such revenue were in arrear, to the extent of more than £10,000, not only was the arrear discharged out of the surplus produce of the tax on the suitors in the Common Law and Ecclesiastical Courts, but the tax was revived and made perpetual, in order to provide a sufficient revenue for the future wants of the Hanaper Office, and at the same time to increase the income of the Master of the Rolls, which was considered to be "not adequate to the trouble, dignity, and importance" of this high office; and this tax continued to be levied until its abolition in 1824 by the Act 5 Geo. 4, c. 41. Thus, upon three separate occasions, when the suitors of the Court of Chancery were to be relieved and their losses made good; when an important office of the court was to be maintained; and when the income of one of its highest judges was to be rendered adequate to the support of his dignity: Parliament deliberately called in aid the suitors of the Courts of Law and the Ecclesiastical Courts, and compelled them to contribute to the wants of the Court of Chancery. It is manifest that, except on the broad principle to which we have adverted, those suitors had not the remotest interest in the purposes to which their money was applied, and that, neither individually nor collectively, did they derive the slightest benefit from its application. If, nevertheless, it was consistent with justice, that Parliament should take money directly from the pockets of common law suitors, and apply the money so taken for the exclusive benefit of suitors in chancery, we are at a loss to perceive how it can involve the violation of justice for Parliament to apply a fund which, as we have shown, does not, and never did, belong to the suitors in chancery, and in which they can have, at the utmost, only a constructive interest, not for the exclusive advantage of any one class, but towards the furtherance of a general and comprehensive scheme, from which all suitors alike, whether at common law or in chancery, will derive a common benefit.

74. But the theory which we have been considering involves two assumptions in matters of fact:—1st, that the fund with which we propose to deal (fund B.) has arisen exclusively from a Chancery source, *i. e.*, from the use of the monies of the suitors of the Court of Chancery; and, 2ndly, that those suitors will derive no benefit from the application of a portion of that fund to the erection of courts of law. To neither of these assumptions, however, can we give our assent.

75. With regard, in the first place, to the fund itself, we have seen that although the produce of the rates and duties imposed by the 12 Geo. 1, c. 33, was, in accordance with the provisions of the Act, entered to a separate and distinct account in the books of the Bank of England, yet such produce was, in fact, blended with the other monies paid into the Bank on account of the suitors, and formed therewith one common and general fund, which was promiscuously used and applied towards answering their demands. The particular demands, to meet which the duties were imposed, were not finally ascertained until 1749; but in the meantime, viz., in July, 1739, the first investment of £35,000 was made on fund A., under the authority of the Act of the 12 Geo. 2, c. 24, to which we have before referred. The money thus invested was taken from the general balance of cash then lying dead and unemployed in the Bank; and as it is in evidence before us that while, on the 1st of October, 1738, the total balance of cash in the Bank, out of which that investment was made, was only £181,825 6*s.* 3*d.*, there had been received up to that time, in respect of the duties in question, no less a sum than £37,501 4*s.* 9*d.*, it is clear that a portion of the latter sum, whether more or less, found its way into the stock thus purchased. The exact proportions in which the component parts of the common fund contributed to this investment, it would be difficult, perhaps impossible, now to determine; nor for the present purpose would the inquiry be of any practical value, as enough has been said to show that the "Profit" fund B., with which we are proposing to deal, derives its origin from a mixed source, and has not arisen, purely and exclusively, from the monies of the suitors in Chancery. There is, however, one remarkable circumstance, bearing directly on the point under discussion, which we must not omit to notice. We have shown that, in 1749, the sum of £49,510 17*s.* 4*d.* was carried over from the produce of the duties in question, for the purpose (with the aid of the produce of the investment of Lord Macclesfield's fine) of fully satisfying the master's deficiencies, which were then finally ascertained and settled at the sum of £100,871. But it has been proved before us, that out of this sum, only £96,726 has been actually paid over, the balance of £4,145 never to this day having been claimed by the suitors, to whose account it then stood, and still remains, in the books of the court. Now the Act by which the duties were imposed, expressly provided that any surplus thereof, not required for the purpose of satisfying the master's deficiencies, should be reserved for the benefit of the public, and should be applied to such uses only as should thereafter be directed by Parliament. The unclaimed balance of £4,145, therefore, not having been so required, falls strictly within this reservation, and, with its accumulations, remains at the disposal of Parliament,—and to this extent at the very least, the accumulated fund has arisen from a common law source, and not from monies belonging or equitably appropriated to the suitors in chancery. We think we are justified in treating this sum as having formed part of the earliest investment; and if we do so, and add thereto the produce of the investment half-yearly of the accumulated interest thereon from 1739 to the present time, at the rate of £3 per centum per annum, the total amount would fall very little short of £150,000.

76. From the other proposition which we have noticed above, viz., that the suitors in chancery will derive no benefit from that part of the scheme which involves the erection of courts of law, we must equally withhold our assent. It has been proved by an overwhelming mass of testimony that the suitors of all the courts suffer alike from the defects and inconveniences of the existing system. It must be remembered that the very same body of persons who, as solicitors, conduct the business of the suitors in chancery, represent, as attorneys, the suitors at law, as well as in the Courts of Divorce and Probate and the High Court of Admiralty. Whatever, therefore, clogs their proceedings in the one character, indirectly affects those for whom they are, at the same time, acting in the other. We have examined several of the most eminent members of this body, and they have expressed their unanimous opinion, that as the existing separation and dispersion of the various courts and offices are the prolific sources of delay and expense, so their concentration in a central situation, and in close proximity to the inns of court, will greatly facilitate the transaction of business in all the courts, and will thus promote efficiency, economy, and despatch in the general administration of justice. All classes of suitors suffer alike from the present evil; all will derive a common benefit from the proposed remedy.

77. For these reasons, we are of opinion that fund B. may be legitimately appropriated to the purposes of the proposed scheme without interfering with the rights of property or violating any trust which Parliament can be considered as having

created, either expressly or by construction, in favour of the suitors of the Court of Chancery.

78. But another objection has been brought under our notice, which addresses itself not to the lawfulness, but to the expediency of such appropriation, and this objection we shall proceed to consider with all the respect which is due to the learned and eminent person by whom it has been propounded.

79. It is objected then, by the abstraction of fund B., and its dedication to other purposes, the Court of Chancery will, to the extent of the income of about £39,000 per annum, which is now derived therefrom, be deprived of the power of reducing the fees paid by the suitors. It is conceded that those suitors have no legal right to the fund in question, either as individuals or as a collective body; that it does not belong to them in the sense of property; that it has not been impressed by legislative enactment or otherwise, with any specific trust in their favour; and that if it were a legitimate application of the fund to employ it in building courts at all, there is no sound distinction to be drawn between courts of law and courts of equity. But it is said that the suitors possess a moral right to have the fund applied in the manner and to the purposes which will be most beneficial to them, and that they will gain a great deal more by having no fees to pay in the progress of their suits, than by the concentration and consolidation of the courts of law and equity. The controversy is therefore narrowed to the point of comparative benefit to the suitors.

80. Now assuming, for the purpose of argument, that the suitors in chancery have a moral right to appropriate to their own exclusive benefit the income of a fund which has arisen, to some extent at least, from a tax on common law proceedings, and confining our attention to the question of comparative benefit, we cannot assent to the proposition which has been above stated. Whether it is right to compel suitors to contribute towards the expense of the administration of justice, by means of fees, is a question on which there is much difference of opinion. Into that question we shall not enter, as it lies beyond the sphere of the inquiry which your Majesty has committed to us. We may well admit that, if it were possible, it would be desirable to relieve suitors, from the payment of all fees of court, and that this remission would be an undoubted advantage to them, as would be every reduction in the actual cost of litigation. The existing fees, however, are by no means high; they have been of late years very largely reduced, and they form a very small proportion (not more than eight per cent.) on the whole cost of litigation. If the income of fund B. were wholly applied in the same direction, a further reduction might be effected of nearly half that amount. We cannot, however, consider this as an equivalent for the advantages which the suitors would derive from the proposed concentration, and we are assured by witnesses of great intelligence, of extensive and varied experience, and whose habits of intercourse with the suitors themselves render them more especially competent to form a correct judgment on a question of this nature, that the benefit to the suitors from such a remission of fees would be as nothing compared with the boon they would obtain from the proposed scheme, by reason of the greater economy and despatch with which it would enable their business to be transacted. The providing of suitable courts and offices in which that business may be conveniently carried on has become a matter of urgent necessity; and we are assured that the total abolition of all fees of court would be scarcely felt by the suitors in comparison with the gain which they would derive from the proposed concentration.

81. Assuming that, for the reasons above set forth, there is no valid objection in principle to the application of fund B. towards the execution of the proposed scheme, it remains for us to state in what manner, and subject to what conditions, it may be made available for that purpose, with due regard to existing charges and incumbrances, whether on the capital or the income thereof.

And first as to the capital.

82. It will have been seen from the foregoing narrative, that fund B. has been derived from the surplus income of fund A., re-invested from time to time, so as to accumulate at compound interest; and that fund A. represents such portion of the suitors' cash, as has been invested in securities, under the authority of the various Acts of Parliament to which we have referred On the 1st of October, 1859, the cash so invested amounted to the sum of £2,264,744 1s. 10d., and the securities purchased therewith to the sum of £2,613,360 4s. 8d., the average rate of purchase being a trifle under 87 per cent. It is to these securities that the suitors must look for the repayment of their cash, and if the whole of the latter were now called for, and the securities were realised at the present market price (say 93), there would be a profit of more than £150,000 accruing to the State from the transaction. Thus—

	£	s.	d.
Produce of £2,613,360 Stock at 93	2,430,424	16	0
Deduct suitors' cash, to be provided for as above	2,264,744	1	10
Surplus	165,680	14	2

83. But if, on the other hand, the Court of Chancery were to close its doors, if every suitor were at once to claim his own, and if the securities were realised for the purpose of satisfying those claims, at any price below 87, there would be a deficiency, more or less, according to the price of stock at the time of sale. This deficiency would have to be made good out of fund B., the whole capital of which stands pledged to the suitors, by way of guarantee or indemnity for the sufficiency of fund A. to answer their demands.

84. It is scarcely necessary, however, to remark that the case we have supposed is not merely an extreme, but, practically speaking, an impossible one. No reasonable person will act on the supposition that the Court of Chancery is about to close its doors, and to suspend the exercise of its ordinary functions, nor, except on that supposition, is it possible that the whole body of suitors should concur in a simultaneous demand for the repayment of the whole of their cash. Fund A., which represents that cash, has been the silent steady growth of 120 years, during which the money paid into court by the suitors has constantly exceeded the money drawn out by them, the fund itself being, in fact, the gauge and measure of that excess. With the increase of population and wealth, the extension of commerce, and the multiplication of those complex and ever-varying relations, which are perpetually springing up in a community like our own, there is likely to be a corresponding increase, rather than a diminution, in the business of the Court of Chancery, and in the funds from time to time placed under its charge. From the original foundation of fund A. in 1739, to the present time, there have only been seven occasions on which it has been found necessary to resort to a sale of stock, and on those occasions the necessity did not arise from the insufficiency of the cash in hand to meet the current demands of the suitors, but because, from accidental causes, the floating balance in the Bank of England had been reduced below the sum which it was considered right the Bank should hold, in order to afford a proper remuneration for their trouble in keeping the accounts of the suitors. The risk, therefore, of fund A. being found insufficient to answer the demands of the suitors is, practically, none.

85. Against this risk, however, shadowy and unsubstantial though it be, the suitors have now by law the guarantee of fund B., and if that guarantee be taken away, as it will be if fund B. is appropriated to the purposes of the proposed scheme, they are entitled to claim that another shall be substituted in its room. We think that such guarantee should be given in the shape of a Parliamentary indemnity; the State which takes fund B. for an object of vast public utility, undertaking to stand in the place of that fund, so as to make good any deficiency in fund A., should such deficiency ever arise.

86. If precedents were needed to justify an engagement on the part of the State, in itself so just and reasonable, a series of precedents may be found so apposite, not only to the particular point with which we are now dealing, but to the whole question which has been under our consideration, that we shall proceed to refer to them with some degree of minuteness.

87. In the year 1790, an Act of the Irish Parliament (the 30 Geo. 3, c. 41) was passed, intituled "An Act for enabling the Lord High Chancellor and the Court of Exchequer respectively to make orders on the Governor and Company of the Bank of Ireland for payment out of the general fund of monies belonging to the suitors of the Courts of Chancery and Exchequer, of the sum therein mentioned towards building the principal courts of justice of Dublin and law offices, and for amending an Act intituled an Act for better securing the monies and effects of the suitors of the Courts of Chancery and Court of Exchequer," &c., &c. After reciting that the providing of convenient courts for the administration of justice in his Majesty's principal courts of justice in Dublin, and of offices for the keeping and preserving the records thereof, and of the transaction of the business of such offices, would be of advantage to the public, and that it might require the sum of £30,000

to complete the building thereof, the Act in question directed that, "out of the general fund of the moneys of the suitors of his Majesty's High Court of Chancery and Court of Exchequer," (which Court at that time possessed and exercised an equitable jurisdiction in Ireland, as the Court of Exchequer did in England) deposited in the Bank of Ireland, there should be paid to the Lord Chancellor and chief judges, towards building such courts and offices, the sum of £30,000, by yearly payments of £10,000 each. The second section of the Act provided, that if the general fund belonging to the suitors should at any time be reduced to the sum of £30,000 thereby directed to be paid, then the Bank of Ireland should be reimbursed, "from and out of his Majesty's Treasury," the whole of the said sum of £30,000, or so much thereof as should have been paid by virtue of the Act.

(To be concluded in our next Number.)

The Courts, Appointments, Promotions, Vacancies, &c.

HOME CIRCUIT.—CHELMSFORD.

The commission for the county of Essex was opened in this town on the 16th inst., and the courts were opened for business on the 17th, the Lord Chief Justice of the Queen's Bench presiding in the Crown Court, and Mr. Justice Blackburn on the Civil side. There were fourteen causes entered for trial, three of which were marked for special juries. On the Crown side there were twenty-four prisoners, but none of the cases were of a very serious character. The ancient custom of employing javelinmen has been abandoned in this, as in many other counties, and the courts are now placed in the charge of the county constabulary.

OXFORD CIRCUIT.—WORCESTER.

Mr. Justice Byles and Mr. Justice Hill arrived in this city on the 14th inst., and opened the commission for the county of Worcester with the usual formalities.

Their lordships on the 15th attended divine service in the cathedral, and the business of the assizes began in both courts on the 16th, Mr. Justice Hill presiding in the civil court, and Mr. Justice Byles in the criminal court.

The cause list contained an entry of thirteen causes, two of which were marked for special juries. The calendar contained the names of twenty-three prisoners, charged with offences of a light character.

NORFOLK CIRCUIT.—AYLESBURY.

The Lord Chief Justice of the Common Pleas and the Lord Chief Baron, the judges on this circuit, arrived in the town in the afternoon of the 12th inst., and the commission for the county of Buckingham having been opened by the Lord Chief Justice with the usual formalities, his lordship afterwards attended Divine service at St. Mary's church.

The cause list, which was unusually large for this county, contained six causes, two being marked as special juries. The calendar was also above the average both in the number and nature of the offences which it contained, there being eleven prisoners, one of whom was charged with child murder, one with shooting with intent to murder, two with manslaughter, one with burglary, one with perjury, and the others with minor offences.

BEDFORD.

The commission for the county of Bedford was opened on the 16th inst. by the Lord Chief Baron, who afterwards attended divine service.

His lordship sat on the 17th in the Crown Court, to dispose of the calendar, which consisted of two prisoners, one of whom pleaded guilty to a charge of obtaining goods by false pretences, and the other was acquitted on a charge of stealing lead. The Lord Chief Justice of the Common Pleas sat at 10 o'clock on the same day in the Nisi Prius Court, there being two causes entered for trial, an entry somewhat above the average for this county.

The following arrangements, consequent on the resignation of Mr. Bingham, will take place in the metropolitan police courts:—Mr. Tyrwhitt, of the Clerkenwell Police Court, will succeed Mr. Bingham, at Marlborough-street; Mr. D'Eyncourt, of Worship-street, will be removed to the Clerkenwell Court; and Mr. John Henry Barker has been appointed to the office of magistrate at the Worship-street Court in the room of Mr. D'Eyncourt.

Sir Mordaunt Wells, one of the puisne judges, has become a member of the Legislative Council in India, in the room of Sir Charles Jackson, who has resigned. Mr. Le Geyt, the member for Bombay, has given up his seat in the council; his successor has not yet been appointed.

Mr. George Brown, of No. 31, Paddington-green, Paddington, Middlesex, Gent., has been appointed a London Commissioner to administer oaths in the Court of Queen's Bench.

Mr. Henry Richard Sheppard, of Wells, Somerset, Gent., has been appointed a Commissioner to administer oaths in the High Court of Chancery.

Mr. John Hovell Triston, of No. 23, Fortess-terrace, Kentish-town, Middlesex, Gent., has been appointed a London Commissioner to administer oaths in the Courts of Queen's Bench and Common Pleas.

Mr. William Inman Welsh, of Wells, Somerset, Gent., has been appointed a Commissioner to administer oaths in the High Court of Chancery.

Parliament and Legislation.

HOUSE OF LORDS.

Tuesday, July 17.

MARRIAGE LAW IN SCOTLAND.

The LORD CHANCELLOR explained the object of this Bill, and said that the Scotch courts of law had the power of dissolving marriages, and that power was often abused. There was frequently collusion between the parties, and it was a common thing for persons to go from England to Scotland for a divorce who were not domiciled there. A marriage contract in England could be dissolved in Scotland, and while the parties remained in that country they could marry again, and their children would be legitimate; but when they returned to England the original marriage still held good, and if they married again they would be guilty of bigamy, and their children would be bastards. As English marriages were no longer indissoluble, the law of Engand and Scotland must be regarded as the same. The main object of this Bill was to prevent collusive divorces, by providing that no persons should be allowed to sue for divorce in Scotland unless domiciled there in such a manner that if they were to die their personal property would be administered according to the law of that country. It enacted further, that if a divorce had been regularly and solemnly pronounced by a Scotch Court it should be valid throughout the kingdom. The noble and learned lord then laid the Bill on the table.

Lord BROUGHAM believed that the Bill which he had introduced some years ago, forbidding marriages without a very lengthened residence, would have been a better remedy for the evils of the marriage law of Scotland than the measure of his noble and learned friend. Nothing could be more vexatious and unsatisfactory than the present state of that law, and he sincerely hoped some amendment would be made in it.

After a few words from Lord Redesdale,

Lord CHELMSFORD said it would be better to reserve the discussion upon the Bill until the second reading.

The Bill was then read a first time.

Thursday, July 19.

LANDS CLAUSES CONSOLIDATION ACT (1845) AMENDMENT.

Upon the motion of Earl De Grey and Ripon this Bill was read a second time.

HOUSE OF COMMONS.

Monday, July 16.

CRIMINAL PROCEDURE (AMENDMENT).

The sheriffs of London and Middlesex presented a petition in favour of this Bill.

CONTRACT NOTES.

The CHANCELLOR OF THE EXCHEQUER made his financial statement, in the course of which he moved the following reso-

lutions:—"That, towards raising the supply granted to her Majesty, there be charged and paid for and upon every note, memorandum, or writing, commonly called a contract note, or by whatever name the same may be designated, whereby any contract or agreement is made or evidenced for or relating to the sale or purchase of any Government or other public stock, funds, or securities, or any stocks, funds, or securities, or share or shares of or in any joint-stock or other public company, to the amount or value of £5 or upwards, the stamp duty of 1d."

The CHANCELLOR OF THE EXCHEQUER proposed to omit the words "whereby any contract or agreement is made or evidenced," simply in order to give effect to the original intention with which the House had passed the former resolution on the same subject. The intention was to confine the duty to brokers' notes only; but a question had arisen in the opinion of the legal authorities of the Inland Revenue Department, as to whether any contract was made or evidenced by a broker's contract note. As it was right in financial legislation that the meaning of the Legislature should be clear and undoubted, he should propose to omit the words in question.

The resolution, as amended, was then agreed to; as were also the following:—

ASSIGNMENT OF LEASES.

"That, towards raising the supply granted to her Majesty, in lieu of the stamp duty now chargeable for and upon any assignment or surrender of a lease or tack for a term of years exceeding thirty-five, upon any other occasion than a sale or mortgage, there shall be charged and paid a stamp duty equal to the *ad valorem* duty (where the same does not exceed £1 15s.) with which a similar lease or tack would be chargeable."

ACCIDENTAL DEATH INSURANCE.

"That, towards raising the supply granted to her Majesty, in lieu of the stamp duty now chargeable upon the instruments hereinafter mentioned, there shall be charged and paid the stamp duties following—viz., for and upon any policy of assurance or insurance, by whatever name the same shall be called, whereby any sum of money shall be assured or agreed to be paid only upon the death of any person from, or by reason of, any cause incident to or consequent upon travelling, whether by land or water, or any accident or external violence, or any cause whatever other than a natural cause, or whereby any compensation shall be assured, or agreed to be made or paid, for personal injury received from any cause whatever; or whereby both a sum of money upon death and a compensation for personal injury as aforesaid shall be assured and agreed to be paid:—

	s.	*d.*
Where the premium or consideration for such assurance or agreement shall not exceed 2*s.* 6*d.*	0	1
And where the same shall exceed 2*s.* 6*d.* and shall not exceed 10*s.*	0	6
And where the same shall exceed 10*s.* and shall not exceed £1	1	0
And where the same shall exceed £1, then for every 20*s.*, and also for every fractional part of 20*s.* ...	1	0

FOREIGN PROMISSORY NOTES.

"That, towards raising the supply granted to her Majesty, there shall be charged and paid for and upon any promissory note made or purporting to be made out of the United Kingdom, for the payment within the United Kingdom of any sum of money, the same stamp duty as on an inland bill of exchange for the payment, otherwise than on demand, of money of the same amount."

The resolutions were ordered to be reported.

BANKRUPTCY AND INSOLVENCY.

The House again went into committee on this Bill.

The clauses from 128 down to and inclusive of 151 were, after some discussion, agreed to.

Upon clause 152, which abolishes the distinction between raders and non-traders,

Mr. HENLEY moved an amendment for the purpose of limiting the Bill to traders.

A discussion then ensued upon the clause, in which Mr. James, Sir Hugh Cairns, Mr. Montague Smith, Sir Fitzroy Kelly, Mr. Malins, and other honourable members, took part, when the Chairman was ordered to report progress, and the urther consideration of the clause was adjourned.

Tuesday, July 17.

NEW MEMBER.

Mr. White took the oath and his seat for Brighton.

Wednesday, July 18.

CORONERS (No. 3).

Mr. COBBETT moved the second reading of this Bill. He had hoped that the right hon. gentleman (Sir G. C. Lewis) would have given some explanation of what he intended to do with his Bill, or that he would have withdrawn it altogether.

Sir G. C. LEWIS.—It is postponed.

Mr. COBBETT would ask the House to read his Bill a second time, and go into committee *pro formâ*, in order to enable him to introduce amendments. Its principle had been recommended by the commission of 1849—that coroners should be paid by salary instead of fees; and for the same reason which guided the committee this session, that there were several counties in which a most unseemly conflict was going on between the magistrates and coroners, the former disallowing many of the fees which the latter were entitled to charge, and thus practically diminishing to a considerable extent the number of inquisitions. The Bill of the right hon. gentleman gave coroners who had fees disallowed by magistrates an opportunity of seeking a remedy by a case to be submitted by the justices to the Queen's Bench; but many lawyers thought that Bill would not answer the purpose. His own Bill had been introduced early in the session, and a committee, moved for by his hon. and learned friend the member for Marylebone, had sat to inquire into the facts of the case. The committee took evidence, and received ample proof that there should be such a Bill as had been recommended by the commission; and the present measure carried out as strictly as possible the recommendations of both. Some of these recommendations, however, were of a minor character; it was doubtful whether they were altogether practicable; and he thought it advisable, after a good deal of correspondence and inquiry, to expunge such clauses from the Bill. There were fifteen counties in which fees which the coroners thought themselves entitled to charge were disallowed; the greater number being in Durham, Hants, and Stafford. In Hants, according to the statement of Mr. Todd, of Winchester, the inquisitions held by him had been reduced from 160 to about 32; and the localities where the cases of sudden or suspicious deaths occurred in which no inquest had taken place were much dissatisfied. The magistrates, having practically control of the police, had instructed them to furnish him with information in so few cases that he had no doubt deaths took place in a suspicious manner where he was not called upon at all to act. The committee had similar evidence from other quarters. In Middlesex there was a strong belief on the part of the coroner that one particular species of crime—child-murder—was greatly on the increase. He put it to the House whether they ought not to take care that the office of the coroner should not be, as it were, abolished, as it had been in some fifteen counties of England. Magistrates were, no doubt, anxious to spare the county-rates, but he must observe that the increase of crime would lead to more expense than would result from the due holding of inquests. Mr. Hills, one of the coroners for Kent, told him the other day that, though he was informed that upon two consecutive days two children had been smothered in the same house, he held no inquest.

Mr. DEEDES seconded the motion.

Sir G. C. LEWIS said that although he had originally entertained considerable doubts as to the expediency of paying coroners by salary, yet if it was the general wish of the House that the experiment should be tried he was willing to acquiesce in the adoption of that course, provided that the rest of the institution should be made to harmonise with that mode of payment. At present the coroner was elected by the freeholders, and could only be removed by a judicial proceeding before the Lord Chancellor. In point of fact, he was irremovable, and the only security for the proper discharge of his duties was his being paid by fees. If that security were, by the substitution of a salary, withdrawn, it would be desirable to give to the Crown some power of removing from his office a coroner who was unfit for, or negligent in, the discharge of his duties. It was also a matter well deserving of consideration whether the office—which, though frequently called a judicial one, partook more of the nature of one of police—should continue to be an elective one. These elections often led to contests which partook of a political character, involved great expense, and caused the successful candidate to enter upon his office burdened with debt—a most unfavourable position for any one who had judicial

or ministerial duties to perform. He would suggest that it might be desirable to confine the appointment of coroners to the lords-lieutenant of counties, who were persons of consideration and of interest in the counties, and included within their ranks men of all political opinions. He doubted the expediency of limiting the selection of coroners' juries to the list of county jurors, and thought that it might perhaps be expedient to diminish the number of jurors. There was not, that he was aware, any magic in the number 12, and he believed that a smaller number would be sufficient to conduct these inquiries. He should be prepared to vote for the second reading of the Bill; but he hoped that his hon. and learned friend would take these remarks into consideration, and in the amendments which he intended to introduce into his Bill adopt such of the suggestions as he thought were well founded.

After some further discussion, in which several honourable members took part, the Bill was read a second time, and committed *pro formâ*.

Thursday, July 19.

BANKRUPTCY AND INSOLVENCY.

A petition was presented by Mr. Berkeley from the Bristol and Clifton Trades Protection Society against an increase of fees in county courts under this Bill.

The House then went into committee on the Bill, when

The ATTORNEY-GENERAL, reverting to the discussion that had taken place upon the Bill, the opposition and difficulties with which he had been met in connection with what is known as the non-trader clause, together with the lateness of the session, said that he had, with the approbation of the Government, unwillingly come to the conclusion that it was necessary to abandon the Bill for this session. He did not feel that even if he succeeded in satisfying the committee, and in inducing it to extend the Bill in the case of the non-trader, that it would be proper to send up a Bill containing such novel and important provisions to the other House at so late a period. He trusted, however, that in another session he should be able, from the experience that he had derived on the discussion upon this Bill, to present a measure in less gigantic proportions, and embodying all its principles and objects in a more condensed form; and he hoped that it would be introduced at an earlier period of the year, when it could receive the due consideration necessary to enable it to pass, for there was a growing and urgent demand for legislation on the subject.

The Honourable and Learned Member then moved that the Chairman do leave the chair, with the view of proposing, when the House resumed, that the order of the day be discharged.

Sir HUGH CAIRNS suggested that instead of a consolidation of the whole law of bankruptcy it would be better to bring in at first a single measure for a change of the law.

Mr. MALINS thought the Attorney-General had exercised a sound discretion in abandoning the measure at the present time.

Sir J. PAKINGTON complained of the intention of the Government not being sooner made known.

Lord PALMERSTON said the Government had been extremely reluctant to give up all hope of carrying the Bill through, and had clung to that hope to the last.

Mr. HENLEY congratulated the Attorney-General upon his coming to the conclusion to abandon the Bill, and recommended him, in any future Bill, to leave out the non-trading part, which involved a vast change of the law, and against which good reasons might be urged.

The motion was agreed to, and the Chairman left the chair.

PROFESSIONAL OATHS ABOLITION.

A petition from the Recorder of London and others against being obliged to take oaths on entering the profession was presented.

NOTICES OF MOTION.

HOUSE OF LORDS.

Monday, July 23.

CRIMINAL LUNATIC ASYLUM.

Third reading appointed for this day.

Tuesday, July 24.

LANDS CLAUSES CONSOLIDATION ACT (1845) AMENDMENT.

QUEEN'S PRISON.

Committees on these Bills to meet.

HOUSE OF COMMONS.

Monday, July 23.

INDIA JUDICATURE.

Sir CHARLES WOOD, to bring in Bill to establish High Courts of Judicature.

ENDOWED CHARITIES.

LARCENY LAWS CONSOLIDATION ACT AMENDMENT.

These Bills to be read a second time.

JOINT STOCK COMPANIES.

Committee to meet.

Tuesday, July 31.

PLEA ON INDICTMENTS.

Bill to be read a second time.

PENDING MEASURES OF LEGISLATION.

FELONY AND MISDEMEANOUR.

Summary of a Bill for amending the course of proceeding on trials for felony and misdemeanour.

1. After the passing of this Act, upon every trial for felony or misdemeanour, it shall be the duty of the presiding judge, at the close of the case for the prosecution, to ask the prisoner or defendant whether he intends to adduce evidence, and in the event of his or his counsel announcing his intention to do so, the counsel for the prosecution to be allowed to address the jury a second time in support of his case, for the purpose of summing up the evidence; but if prisoner or defendant or his counsel shall announce such intention, upon being so asked, then he or his counsel to be allowed, if he shall think fit, to open his case, and after the conclusion of such opening such prisoner or defendant, or his counsel, shall be entitled to examine such witnesses as he may think fit, and when all the evidence is concluded to sum up the evidence, and the right of reply and practice, and course of proceedings, save as altered by this Act to be as at present.

2. The word "counsel" to be construed to apply to attorneys in all cases where attorneys are allowed to appear as advocates in cases of felony or misdemeanour.

3. Act not to apply to Scotland.

LAW OF EVIDENCE (FURTHER AMENDMENT).

A Bill has been brought into the Upper House by Lord Brougham for the further alteration of the law of evidence, by which prisoners and their wives on trial by indictment or information for misdemeanour may offer themselves as witnesses in their own behalf, in all cases where the person injured is examined for the prosecution, and such prisoners shall be subject to cross-examination and to the same penalties for perjury as any other witness.

Recent Decisions.

[*Equity*, by J. NAPIER HIGGINS, Esq., *Barrister-at-Law*; *Common Law*, by JAMES STEPHEN, Esq., *Barrister-at-Law*.]

EQUITY.

BANKRUPT TRUSTEE—REMOVAL OF BY COURT OF CHANCERY

Re Bridgman, 8 W. R., V. C. K., 598.

An important practical question of general interest was raised in this case. Strange to say, it is yet by no means certain what a court of equity will do, either by virtue of its own proper jurisdiction or under the provisions (s. 130) of the Bankrupt Law Consolidation Act, in the case of a bankrupt trustee. Mr. Lewin, in the last edition of his valuable work on the law of trustees, lays it down in rather too absolute a manner "that if the trustee become bankrupt . . . the *cestuique trust* may have him removed and a new trustee appointed in his room." The only authority, however, that is cited in support of this unqualified proposition is the case of *Bainbrigge* v. *Blair*, 1 Beav. 495, in which Lord Langdale, M. R., appears to have been of opinion (and in that case decided) that the bankruptcy of a trustee was a sufficient ground for his removal, although there the bankrupt trustee had obtained his certificate three

years before, and the trust estate had lost nothing by the bankruptcy, nor was it likely to suffer any future loss, inasmuch as the estate was in the hands of a receiver. This is the only explicit and direct authority in favour of the proposition that the bankruptcy of a trustee is of itself a sufficient ground for his removal. Lord St. Leonards, when Lord Chancellor of Ireland, however, in *Re Roche*, 2 Dr. & W. 287, s. c. 1 Connor & L. 306, held that a trustee upon becoming bankrupt "became unfit to act" in a trust constituted by a settlement in which there was power to appoint new trustees in case any of the trustees therein nominated should "become incapable or unfit to act;" although there appeared in that case to be no other circumstances calling for a removal of the trustee, than that of his bankruptcy.

In addition to the general jurisdiction of courts of equity in relation to all trusts and over trustees, there are also, applicable to the case of a bankrupt trustee, some special statutory enactments. By the 130th section of the Act of 1849 (a re-enactment of the 79th section of 6 Geo. 4), if any bankrupt trustee be seised, possessed, or entitled to any trust property, "it shall be lawful for the Lord Chancellor," on petition, to order the assignees to convey, assign, and transfer the property to a new trustee; and the decision of Kindersley, V.C., involved the construction of this section as well as the general doctrine of the Court in relation to the rights of *cestui que trusts* as against bankrupt trustees. Before the Act of George 4 was passed, it was well settled that property vested in a trustee, merely in his fiduciary character, did not pass to his assignees; so that the object of the section must have been confined solely to the removal of the trustee himself. That being so its language is certainly somewhat unfortunate, as it it has had the effect of raising a doubt upon what was before well established, namely, that the trust property did not pass to the assignees; and the original clause in the Act of Geo. 4 was evidently framed with a view to the state of things existing before this doctrine was settled. The Act of 1849, however, not only continues the same inapt words, but likewise fails to render more explicit, the meaning of the Legislature upon the important question whether bankruptcy is of itself a disqualification for the position of a trustee. It may be observed in passing, that the 241st clause of the present Bankruptcy and Insolvency Bill is a mere repetition of the same words, without any attempt to deal with the questions which have been raised upon the corresponding section in the former Acts.

For some time it was doubted whether any judge of the Court of Chancery, except the Lord Chancellor, had jurisdiction to do what it was declared by the Act "it should be lawful for" the Lord Chancellor to do. Such a doubt might well be entertained, considering that in 1849, when the Bankrupt Law Consolidation Act was passed, there were, in fact, three equity judges besides the Lord Chancellor. It being so clear however, that the Legislature could not have intended to prevent the jurisdiction of any judge of the Court of Chancery as to the subject matter in question, it has been held that any judge of the Court had jurisdiction under the section; and the main question in *re Bridgman* was, whether the provisions of the section were compulsory on the Court, or they might be applied according to its discretion. The Vice-Chancellor was of the latter opinion, and decided accordingly.

This decision was only of importance in the present case, inasmuch as the question did not arise in a suit; and the application for removal of the trustee was by petition under the Act. His Honour, therefore, being of opinion that bankruptcy was not of itself, according to the doctrine of the Court, a sufficient ground for the removal of a trustee, intimated that it would be improper in a petition under the Act to attempt to enforce its provisions against a bankrupt trustee, by superadding some other ground, as, for instance, vexatious conduct.

There can be no doubt that where the trust property is placed in a situation of peril, owing to the bankruptcy or insolvency of a trustee, the Court will, if necessary, for the protection of the property, upon a bill being filed, remove the needy trustee, and appoint a new one in its stead.

COMMON LAW.

PRACTICE—PROCHEIN AMY—RETAINER OF ATTORNEY.

Collins v. *Brook*, 8 W. R., Exch. C., 474.

This was an appeal against the decision of the Barons of the Exchequer, who had unanimously discharged a rule *nisi* obtained in that court, to enter a verdict for the defendant instead of for the plaintiff; for whom, at the trial of the cause at Nisi Prius, a verdict had been entered. The plaintiff in the action, was an infant suing by his *prochein amy*, and it was brought to recover the amount of the damages and costs recovered in *another* action brought for the same infant, by the same *prochein amy*, against one L. In this previous suit, the present defendant had acted as the attorney, and to him the damages and costs therein had been paid by L.; but he retained the amount paid substantially on the ground that he had been retained, not by the infant, but by his *prochein amy*; and that, therefore, there was a lien on the proceeds for costs, there being nothing to show that he had received the money for the use of the infant plaintiff. In the argument before the Court of Exchequer, it was alleged that there were no authorities on the question whether an infant plaintiff can sue the attorney in the cause for money received by him from the defendant, in respect of damages awarded to the infant; and that the case must therefore be decided upon general principles. The Courts agreed to this view; but replied that, in point of *fact*, the money received was that of the infant; although it might have been paid by the defendant to the *prochein amy*, who, by retaining the defendant as attorney in the cause, had merely empowered such attorney (as he lawfully might do) to receive the money for the infant. And this conclusion was confirmed by the Court of Exchequer Chamber, in deciding the appeal. And they further said, that in order to maintain an action for money had and received to the use of the plaintiff by the defendant, it is not in all cases necessary to establish any privity between the parties; as, for example, where the money comes into the hands of the defendant *tortiously*. And, finally, that though no doubt the effect of their decision might be that in exceptional cases a *prochein amy* might be led to incur expenses in the suit, without the obvious means of reimbursing himself, which he would have if the money recovered therein were considered as belonging to him in the first instance, and not to the infant himself;—yet that this inconvenience was not a serious one, since, if a man is not prepared to undergo the liability attendant upon suing as *prochein amy*, he ought not to undertake the office at all.

ARTICLED CLERK, PAROCHIAL SETTLEMENT OF—3 & 4 W. & M. c. 11, s. 8.

Churchwardens, &c., of St. Pancras, Appellants, v. *Churchwardens, &c., of Clapham, Respondents*, 8 W. R., Q. B., 493.

By 3 & 4 W. & M. c. 11, s. 8, any person who is bound *apprentice* to another by indenture, and inhabits any town or parish, gains a settlement therein. The present case raised the question, whether an articled clerk to an attorney is within this provision? and the Court held that, he is, in the eye of the law, an "apprentice," inasmuch as the word is not properly limited so as to apply only to one bound for the purposes of learning a *trade*. All that is required is, that he should be bound to another for the purpose of learning a trade *or* business — a description which an articled clerk properly answers. It may be here observed that it has been already decided that an articled clerk is not an apprentice within the meaning of the Bankrupts Acts, which discharge the indentures of apprentices upon their masters becoming bankrupt (see 6 Geo. 4, c. 16; 12 & 13 Vict. c. 106, s. 170; *Ex parte Prideaux*, 3 Myl. & Cr. 327)—for the contingency of the master of an articled clerk becoming bankrupt is expressly provided for in the Attorneys and Solicitors Act (see 6 & 7 Vict. c. 73, s. 5). But the question whether a clerk comes with the *Poor Law* Act does not seem, before the present case, to have arisen for judicial determination.

COUNTY COURT PRACTICE—SIGNING SPECIAL CASE OF APPEAL.

Hacking v. *Lee*, 8 W. R., Q. B., 495.

This is a decision of some importance in reference to county court practice. By 13 & 14 Vict. c. 61, ss. 14, 16, any party who is dissatisfied with the determination or direction of the judge, or with his admission or rejection of evidence, and who intends to appeal, must, within *ten days* after the judgment (exclusive of the day of trial) give notice of appeal to the other party or his attorney. This is the *legislative* enactment upon this subject; but there are also certain "rules and orders," framed by the county court judges themselves, which prevent the notice of appeal from operating as a "stay of proceedings," unless certain other things are observed by the appealing party. One of these things is, that he must, before the rising of the court on the day on which judgment is pronounced, deliver to the registrar a statement in writing containing the grounds of his dissatisfaction. Another is, that

the special case must be presented to the judge for his signature, at the court held next after the expiration of twelve clear days from the day on which judgment was pronounced. In the present case, although notice of appeal was given within the time limited by the statute, the case was not presented for signature until after the time of limitation prescribed by the county court rules; and the judge, acting upon these, refused to sign or seal it. It was, however, held by the Court of Exchequer, in the well-known case of *Furber* v. *Sturmey* (3 H. & N. 521), that a breach of the county court rules will not be allowed to curtail or qualify the right of appeal given by Act of Parliament; and that the only object of those rules is (by allowing the successful party on the original trial to proceed on the judgment, if the appeal proceedings do not comply with their requirements), to prevent the power of appeal given by statute from being converted into an instrument of delay. In the present case, this view of the nature of these rules and orders, and of the penalty attaching to a disobedience of them, is expressly confirmed by the Court of Queen's Bench; who made absolute a rule which had been obtained by the defendant, calling upon the plaintiff to show cause why the special case for appeal should not be settled, signed, and sealed by the county court judge, although it had not been presented in due time.

COSTS, LAW OF—PLEA PUIS DARREIGN CONTINUANCE, CONFESSION OF.

Bennett v. *The London and North-Western Railway Company*, 8 W. R., Exch., 500.

This was a question arising under somewhat singular circumstances, as to the proper construction of the rule of court, which provides that a plea containing a defence arising after the commencement of the action, may be pleaded together with pleas of defences arising before the commencement of the action, provided "that the plaintiff may confess such plea, and thereupon shall be entitled to the costs of the cause up to the time of the pleading of such first mentioned plea (Reg. Gen. H. T. 1853, Pl. v. 22)." The action was for the loss of a parcel; and the defendant, after having previously placed on the record certain pleas in bar of the action, added afterwards by leave one to the effect that *puis darreign* continuance—*i.e.*, since the last pleading—the plaintiff had been convicted of felony. This plea the plaintiff confessed; and immediately signed judgment against the company for the costs of the previous proceedings in the cause. Upon moving to set aside this judgment, the defendant argued that, by the plaintiff's conviction, his right of action, and everything incidental thereto (including the right to costs for previous proceedings), passed to the Crown. The Court, however, replied that, if the company's real defence originally was that the claim was an imposition and fraud upon them,—no parcel such as was alleged having ever been sent,—they ought to have persisted in that defence, and shown that the fact was so; and ought not to have retired behind the plea, merely saying that the plaintiff was now a convicted felon, and, therefore, that his right of action fell to the ground, or rather passed to another party—viz., the Crown. The Court, consequently, allowed the plaintiff to retain (as against the company) the costs of the cause up to the time of their pleading his felony.

Correspondence.

ATTORNEYS AND SOLICITORS' BILL.

The Attorneys and Solicitors Bill is in a very jeopardised condition, and will, I fear, come to the same sad end as its predecessor of last year. Certainly it has passed the Lords, and has had one sitting of committee in the Commons; but it has to await another and also the third reading. It should have come on a fortnight ago, but, just as the proceedings commenced, some members hostile to it counted out the house. Considering the crowded state of the notice papers I fear it will not become law this session, unless the Law Institution has some powerful friends to look after the measure. In my humble opinion the promoters of the Bill acted foolishly in making it so long, and insisting upon the insertion of clauses which in these days of antipathy to attorneys, could have no chance of being passed, and which, by the long and fruitless discussion they caused, rendered a second sitting of the committee necessary. What the profession needs is an educational examination of articled clerks, and as a measure has already passed the Commons authorising the establishment of such an examination, I venture to say it would be good policy to press it on in the Lords, and bring in a Bill next session for any other purposes the Law Institution may desire. If they do not so act, I fear that between two stools we shall come to the ground, and the Law Society exhibit much weakness.

DOROTHEUS.

LIABILITY OF LETTER-CARRIERS.

Is a letter-carrier compellable to put all letters in the letter-box of a private door (when expressly ordered to do so) instead of giving them to any individual at the house, whether or not such individual be the party to whom they are addressed? If he is bound—but neglects—to do so, is he punishable, and how?

Perhaps some of your subscribers will give me the benefit of their opinions upon the point, and oblige,

A LETTER RECEIVER.

THE LAW OF COUNSEL'S RETAINER.

The law and practice of retainer requires revision.

I give you facts which have recently occurred to me.

In a cause of importance (involving the title to a large tract of land) a retainer for the plaintiff was tendered to the clerk of Mr. Y., a Queen's counsel, and an inquiry made if he would be at the assizes, the answer was Yes, and the fee was paid.

Subsequently Mr. Y. announced that he would not go to the assizes, and thereupon a retainer was given to Mr. X., whose clerk took it and the fee, and ten days afterwards, when the circuit had commenced, and when the venue could not be changed, Mr. X.'s clerk sent word that Mr. X. was a month previously retained for the defendant.—Yours,

ORDER.

[The foregoing has been communicated to us by a solicitor of the highest respectability; and we can vouch for the truth of the facts alleged by "Order."]

The Provinces.

LIVERPOOL. — A special meeting of the Town Council was held on Wednesday, the 4th instant, when a correspondence between the mayor and the Home Office, relating to the fees and salary payable to the clerk of the peace was read. The Mayor, Mr. T. D. Anderson, presided. The last letter from the Home Office asked whether the council would agree to a salary to the clerk of the peace of £1,000 per annum, with a proportionate scale of fees. Mr. J. R. Jeffery said that last year the recorder, Mr. Gilbert Henderson, received 700 guineas (£735), while the clerk of the peace received, in salary and ascertained fees, £1,294 6*s.*; in 1858, the clerk of the peace received, in salary and ascertained fees, £1,900, and possibly the surplus fees might reach £300, being £2,200 a year received by the clerk of the peace as against 700 guineas received by the recorder. The correspondence was referred to the Finance Committee.

SALFORD.—At the general quarter sessions of the peace for the hundred of Salford, which were opened on Monday, the 9th instant, the chairman (Edward Ovens, Esq.), in addressing the grand jury, after referring to the fact of the calendar being a very light one, and that the number of prisoners in gaol was exceedingly small, said that he could not entirely attribute this state of things to what it had been attributed to, viz., ragged schools, reformatories, and the general improvement of the population. The institutions to which he had referred were gradual in the improvement which they effected, and therefore the sudden change that had taken place he thought was not their work. He feared, from enquiries which he had made, that the decrease of committals was to be attributed rather to the reduction in the allowances to prosecutors' witnesses and persons attending the criminal courts. This had been pointed out to the Treasury, and a protest had been made by the justices of Northumberland and other districts, but without its being regarded. He had himself inquired into the working of the new regulations from clerks of the peace, chief constables, and other officers, and had also obtained from disinterested persons returns of the actual expense that persons were put to in attending courts of justice, and he had compared these returns with the table of allowances issued by the Treasury; and the result of his investigation was, that excepting in the case of the lowest class

of persons, witnesses were not paid the money they had actually expended, and that frequently ordinary police constables were money out of pocket by attending a trial. The consequence was a general disinclination to bring forward charges, or to support them when they were brought forward.

STAFFORD.—The county sessions were opened here on the 2nd instant, before the Earl of Lichfield and a bench of magistrates, when the Hon. and Rev. A. C. Talbot moved the following motion, of which he had given due notice:—"That the police-constables of this county be ordered to discharge the duties hitherto performed by the sheriff's javelin men—this order to take effect forthwith." In calling the attention of the Court to the subject, the speaker stated that he had spoken to the high sheriff upon the subject, and had ascertained that the cost to that functionary of the javelin men was about £300 a-year, and that he was prepared to give that sum, or any sum saved by the employment of police during his tenure of office, to some charitable institution, or other public object. Seeing that this was the case, he thought it highly desirable that the motion should be adopted, especially when they considered that the police would keep order far better than the javelin men, who, at the last assizes, were quite unequal to the task, and the court was in the most annoying disorder. The motion was seconded by Captain Whitby.—Mr. T. F. Twemlow opposed the motion, and thought it would be quite time to take such a step when an application came from a high sheriff for such a measure to be adopted. For his part, he should not like to see her Majesty's judges brought up to the hall in the custody of the police. Nor would he have the ceremony shorn of its pageantry, which in his opinion had a very good effect. He moved the rejection of the motion.—Colonel Hogg stated that twenty police-constables at the assizes and ten at the sessions would keep order and do the necessary duty, but they would require extra pay as in other counties for the same work, viz., 2*s.* for constables, 3*s.* 6*d.* for sergeants, and 5*s.* for inspectors; these charges, of course, to be paid by the sheriff.—Major Chetwynd said that if twenty constables could be spared for forty days in the year, he should think that a decrease in the number of the force could be safely made. After some further discussion, the motion was carried by a majority of one, twenty voting for, and nineteen against it. It was suggested that some of the magistrates had voted by mistake, and that therefore the vote should be taken again. This was, however, protested against, and the decision was adhered to, and recorded amidst much laughter. Another motion was passed, instructing the county surveyor to take the necessary steps for rendering the present inadequate accommodation of the judges' lodgings equal to the requirements of the county.

WARWICK.—At the county court held here on the 13th inst., before J. E. Davis, Esq., his Honour, before the business of the court commenced, said it was impossible for any one to take his seat in that court without feeling very acutely the loss the court had sustained in the death of Mr. Nicks, the registrar. It had been his privilege to sit for some years as the deputy judge, and without anticipating any remarks which would have been made by the judge of that court, who, he was certain, must feel the loss very greatly, he could not let the present opportunity pass, without referring to the high estimation in which the late Mr. Nicks was held by all who practised in the court. He himself could bear testimony to the worth and character of Mr. Nicks, and the feeling of regret that all entertained for the death of so able and conscientious a public servant. The business of the court was transacted by Mr. F. Tibbits, the deputy-registrar.

Foreign Tribunals and Jurisprudence.

AMERICA.—An important Act was passed in the late session of Congress relative to the judicial powers of United States consuls in Mahometan and pagan countries. By treaties with Turkey, Tripoli, Tunis, Morocco, Muscat, Persia, Siam, China, and Japan, American residents there are exempted from the jurisdiction of native tribunals, and the duty of hearing and deciding all complaints against them of a civil or criminal character devolves on the American consuls. In order to remove certain impediments to the exercise of these functions, the new law extends over American citizens resident in those countries the authority of American laws, including the common law, equity, and admiralty law, and authorizes the appointment by the President of marshals to enforce the execution of process. The same Act makes complicity with insurrection against the governments of those countries a capital offence. Consuls in countries with which they have no treaties are similarly empowered by the new law.

Review.

State of New York. First Report of the Commissioners of the Code, 1858. *The Political Code of the State of New York, reported complete by the Commissioners of the Code*, 1860. Albany: Weed, Parsons & Co., Printers to the State Departments.

The State of New York is engaged in the experiment of reducing the whole body of its municipal law into a written and systematic code. The law of this State is declared by the constitution to include such parts of the common law as were in force at the date of its independence, comprising all the then established principles and decisions of the English common law, which is now, for the first time, we believe, to be subjected to the process of codification.

This is not, indeed, the first experiment in codification made in the United States. The general constitution of the Federal Union, and the particular constitutions of the several States, may all be regarded as specimens of codes of constitutional law; thus forming a strong contrast to our constitutional law, which is still to be found mainly in tradition and custom. In civil law, the State of Louisiana has had a code since 1830, of which the reputation has extended to this country. That State was originally a French colony, and was transferred from the crown of France to that of Spain. It was eventually purchased by the United States and formed into a State of the Union. Its laws partake of their French and Spanish origin; and its code is essentially a code of Roman law, modified by these circumstances, and not of the English common law. Louisiana also possesses a criminal code which partakes in some degree of the principles of that branch of our common law. With this trifling exception, though the principle of codification finds much favour in the States, and seems likely to be generally adopted, we believe we are fully justified in saying that this is the first attempt to comprise the English common law in the process.

The experiment is one full of interest, and perhaps important consequences, to ourselves and to all those dependencies of the British empire which are subject to the common law. With respect to the latter, there seems no reason to doubt that a promulgation of law in a form so convenient as a code, if practicable to a State like New York, would be equally practicable for every colony whose laws are of similar origin. With respect to ourselves, the consequences are not perhaps so obvious. The transition from the one form of law to the other would involve a more radical change than can as yet be contemplated. The comparative value of a code, in contrast with our traditional system, is still disputed. Even the peculiar merits of a code are sometimes altogether denied.

We forbear on this occasion from entering upon the much discussed question of the advantage of a code for the administration of English law. We prefer noticing a few facts which will serve to shew the important bearing of the subject on our present position. It is certain that we have long suffered great inconvenience from the accumulation of our laws, and from the voluminous bulk of the records and repositories in which they have to be sought. At present an English lawyer cannot as a constant habit refer to the law in its original source without great expense of money in collecting the authorities, and great expense of labour in studying them. Lord Bacon felt the evil even in his time, and made a proposition to King James touching the compiling and amendment of the laws of England, offering his own services for that purpose. Since the time of Lord Bacon we have groaned under the increasing burden without summoning sufficient energy to remove it. The only attempt of the kind has been the Statute Law Commission, which was neither successful or encouraging. The machinery was so ponderous and clumsy that all the moving force was expended in setting it to work: and everybody rejoiced when the House of Commons put a summary end to its useless and expensive labours. Our present position, therefore, naturally induces us to watch with great interest an experiment made by another country with a view to obviate similar inconveniences.

Let us examine, then, what the State of New York has done for a digest and simplification of its laws; and in the first place we will glance at the state of its constitutional law. It has already had three new constitutions in the form of written codes: the first being their act of creation; the others, when the State had attained the respective ages of forty-six and seventy-one years. The habit of the State seems to be by a periodical act to cast its old constitution, which thereupon becomes mere waste paper, and don a new one with which it starts upon a renewed course of existence. Each

constitutional code is complete in itself, and admits of no reference back to supply its deficiencies, or explain its meaning. The white male citizen of the age of twenty-one years, provided he can read, can at once point out exactly by article and section his right to vote at elections, his right to vote by ballot, and his right to elect his own representatives, public officers, governor, and judges. There are, certainly, advantages in this system. At least, there is no need for committees to search for precedents, entailing lengthy reports, followed by long discussions as to their meaning. Defects appearing unexpectedly in the constitution may be cured at once by an easy process of amendment, or may await the next occasion of renewal.

Next let us see how the State of New York has dealt with the statute law. Although the accumulation of statutes could not be expected to rival ours until the lapse of many centuries, yet it promised in a much shorter time to become highly inconvenient. It was therefore an act of prudence and foresight in the State to adopt some measure of prevention. Accordingly in 1825, the Legislature of New York authorised and directed a complete revision of the statutes, and appointed three commissioners, one of them being Henry Wheaton, the author of the well known treatise on international law, to perform the task. The object then proposed was not a codification of the whole law, but was something more than a consolidation of the statutes. The commissioners were directed to collate the public Acts of the Legislature then in force, to consolidate them according to subjects, and arrange them under titles, divisions, and sections, as they should think proper, and suggest to the Legislature such contradictions, omissions or imperfections, as should occur to them in the course of their work. Reports of the commissioners containing portions of the statutes thus revised were presented at intervals; and finally "the revised statutes" collectively became law on the 1st Jan. 1830, and have formed the basis of the statute law of the State ever since. The speedy completion of this work shews that there is no insuperable obstacle in the nature of such an undertaking; and the difficulty in the way of a similar revision of statute law in this country, if conducted with suitable machinery, would lie only in the greater bulk of the statutes to be operated upon. The revised statutes of the State of New York are contained in three moderate sized octavo volumes, the whole contents of which would not fill one volume of the bulk and type of the collection of statutes by Chitty. The arrangement of the revised statutes is in four parts or acts: the first, concerning the territorial limits and divisions, the civil polity, and the internal administration of the State; the second part, concerning real and personal property, the domestic relations, and private rights; the third part, concerning courts of justice and civil procedure; and the fourth part, concerning criminal law and criminal procedure.

A consolidated and codified edition of the statutes proved a great step towards extending the same process to the rest of the law; and this is the work which the State has now in hand. Considerable experience was obtained of the working of the revised statute book before any further attempt was made in the same direction. Meanwhile, many subsequent statutes had of course been passed, forming an undigested supplement to the revised portion of the statutes. With a view to incorporate these, and also as an important step towards a code, in the last new constitution of the State of New York adopted in 1846, a section was inserted (art. 1, sect. 17) requiring the Legislature to appoint three commissioners, whose duty it should be to reduce into a written and systematic code the whole body of the law of the State, or so much thereof as should seem practicable and expedient, and to specify such alterations and amendments therein as they should deem proper; provision was also to be made for the publication of the code prior to its being presented to the Legislature for adoption. In accordance with this requirement of the constitution, commissioners were first appointed to report on practice and pleadings, who, in 1849, presented to the Assembly a report containing two codes, a code of civil procedure, and a code of criminal procedure. These codes were intended to embody the whole law of civil and criminal procedure, and to supersede the portion of the revised statutes, the subsequent statutes, and the common law relating to those subjects. They were adopted by the Legislature in the next session, and became law. The principal features of the new procedure are, the abolition of the old forms of pleading, and of the distinction between legal and equitable remedies.

In 1857 commissioners were appointed by the Legislature to reduce into a written and systematic code the whole body of the law of the State, except such portion as had been already reported upon by the commissioners of practice and pleading, or was embraced within the scope of their reports. The commission directed them to divide the work into three portions: one containing the political code; another, the civil code; and a third, the penal code. Certain precautionary measures were to be taken before the final presentment of their report, chiefly with the view to ensure full publicity, and to invite free criticism at the right time and from the right quarters, so as to keep an efficient check upon the work at every step in its progress. The commissioners were directed first to report a general analysis of the codes projected by them. When the codes were prepared and printed they were to distribute them among the judges and other competent persons for examination. They were then to re-examine the codes with the aid of such suggestions as might have been made to them, and to reprint them as finally agreed upon, and again to distribute them to all the judges of the superior and inferior courts six months before being presented to the Legislature. The commissioners appointed were David Dudley Field, William Curtis Noyes, and Alexander W. Bradford. One of the commissioners, who had also been the chief promoter of the whole scheme, Mr. Dudley Field, is well known and highly esteemed amongst legal circles in this country, which he sometimes visits; and it will be remembered by many that on one occasion he gave an explanation of his labours in an address to our Law Amendment Society.

In 1858 the commissioners presented their first report containing the general analysis of the codes only. This consists merely of a list of the topics in the order of treatment proposed in the complete work. It serves to exhibit in an abstract form the scientific arrangement adopted by the commissioners within the divisions prescribed for them by their commission. We have now before us another report presented in April of the present year, containing the political code reported complete after the re-examination and correction of the original draft upon the suggestions received from the judges and others amongst whom it was distributed. The Commissioners promise the penal code and the civil code at the next session of the Legislature.

Our limits will permit only a slight sketch of the code at present under review. The primary division of the whole law into separate codes was imposed by the Legislature; and for this division the commissioners in their respective departments are not responsible. Their discretion extends only to the subdivisions in each code; but they assent to and explain the fitness of the primary division imposed upon them. All the laws of a State, they say in the first report, arrange themselves under one or other of the two general divisions, substantive and remedial—the laws which prescribe the rules of conduct, and the laws which provide for enforcing these rules. The latter were disposed of by the commissioners on practice and pleadings already referred to. The substantive laws of the State again separate themselves into three portions: the first referring to the government and political relations; the second, to property and private relations; and the third, to crimes and punishments. Accordingly, the present commissioners were required to divide their work into these three portions, under the titles of a Political Code, a Civil Code, and a Penal Code. This division of codes, adopted by the Legislature, seems convenient for practical purposes; and we do not think there could be much doubt in which code any particular law should be placed or looked for. We cannot, however, unreservedly accede to the theory suggested by the commissioners for this division. We should rather have ranged the criminal code, or the law of crimes and punishments, with the remedial division of laws; and, in the first instance, we should have preferred considering remedial laws in general, not as co-ordinate with substantive laws, but as subordinate and supplementary. Remedial laws have no essential existence, but are entirely contingent upon the infringements of substantive laws. If laws were obeyed as they are intended to be, there would be no criminal law, and no laws of criminal or civil procedure. These laws are necessitated by disobedience to the law, and are devised to prevent or punish such disobedience. Substantive law, meaning thereby law which has an essential existence in the organization of a State, seems properly divisible into public law and private law, including respectively the duties which the citizen owes to the State, and the duties which he owes to his fellow citizens, and may be conveniently arranged into a political code and a civil code. Supplementary to it are the laws of public wrongs and their remedies, and the laws of private wrongs and their remedies, which may be conveniently arranged into a code of criminal procedure and a code of civil procedure. The separation of the penal code from the

code of criminal procedure seems unnecessary and inconvenient; punishment, *i. e.*, judgment and execution, forms certainly a part of criminal procedure.

The political code includes all the public duties of the citizen, that is, duties of the citizen owing to the State collectively. Not that the enactments of the code are all framed in the form of a command; but as there is no law which is not resolvable into that form, this code includes all laws the elements of which are commands on the individual citizen in respect of action affecting the State, and not affecting merely an individual member of the State. Duties of the latter kind will be comprised in the civil code. A short statement of the contents will form the best practical commentary on its boundaries. The political code is divided into four parts, treating respectively of, 1. Persons composing the State; 2. The territory of the State; 3. The general government of the State, its public officers, general police, and civil polity; and, 4. The local government of counties, cities, towns, and villages. Of the second and fourth parts it will be sufficient to speak quite generally: the former defines the geographical limits of the State, and names the counties, cities, and towns therein; the latter prescribes a uniform system of constitution and local government for cities, towns, and villages. The first and third parts require a more minute examination.

The first part is very brief, but highly important. The sovereignty of the State, it is declared, resides in the people. The people consist of citizens electors and citizens non-electors. The doctrines of residence, domicil, and allegiance, are laid down in express terms. Allegiance may be renounced by a formal act. The position of citizens of other States of the Union, and of aliens, is explained. The latter have the rights and duties of a citizen, except the rights of electing to or holding office, but cannot hold real estate.

The third part is the most comprehensive. It is subdivided into four titles:—1. Public Officers; 2. General Rights of the State; 3. Public Ways; 4. General Police of the State. Public officers are classified as legislative, executive, judicial, ministerial. Under the head of legislative officers, the form and action of the Legislature, the enactment and promulgation of statutes are given. It is proper to notice that a considerable portion of this branch of law, which would find its appropriate place here according to the analytic division of the code, is already provided for by the terms of the constitution. The constitutional law of the State, however, differs essentially from the rest of the law of the State in being removed altogether from the province of the ordinary Legislature. It consists of a body of law by which, amongst other things, the ordinary Legislature is created, but which the latter cannot touch. The power to revise and amend the constitution remains in the citizen electors. The mode of effecting amendments is provided by the terms of the constitution. With a few slight exceptions the law of the constitution is not repeated, but merely referred to in the political code.

The head of executive officers includes the civil and military officers. The latter are regulated by the constitution, the peculiar feature of the service being, that all officers below the rank of major-general are elected by those under their command; captains, subalterns, and non-commissioned officers, by their companies; field officers by the officers of regiments; and brigadier-generals by the field officers of their brigades. The civil officers include a long list, from the governor down to inspectors of roads and scalers of weights and measures. Most of them are elected by all citizen electors; some as the governor, lieutenant-governor, secretary of state, comptroller, treasurer, attorney-general, &c., are made so by the terms of the constitution. A few offices of minor importance are entrusted to the patronage of the governor. The judicial officers of the State, consisting of judges of the court of appeals, justices of the supreme court, county judges, justices of the peace, &c., are all elective. The ministerial officers connected with the courts are the sheriffs, county clerks, registrars, &c., all elective. There is a State reporter for the court of appeals appointed by the governor, lieutenant-governor, and attorney-general holding office for three years, but removable by vote of the Legislature. An oath of office is taken by every officer, which deserves to be quoted in full, as a model of what such an oath, if administered at all, ought to be. "I do solemnly swear" (or "affirm") "that I will support the constitution of the United States, and the constitution of the State of New York; and that I will faithfully discharge the duties of the office of , according to the best of my ability."

The general rights of the State, forming the second title of the third part, consist of rights over persons—that is, the right to punish for crime; to enforce civil remedies; to establish custody and restraint over persons labouring under disabilities, as lunatics, infants, paupers, &c.; to require the services of persons for public purposes. The general rights of the State also extend over property. All property on failure of title reverts to the people. The people also possess dominion over land below high water-mark, and all mines of gold and silver.

The next title is public ways, comprising the laws on the following matters: public waters, with provisions respecting fishing, navigation, floating lumber, wrecks, pilots, and harbours; highways, roads, and bridges, with provisions for their supervision, protection, maintenance, and alteration; railways, with all the laws regulating railway companies, the construction of railways, and traffic; canals; turnpike and plankroad companies; ferries. This title is concluded with some miscellaneous provisions relating to highways. The rule of the road is laid down contrary to that prevailing in England; vehicles pass to the right. Another provision relating to the road is rather puzzling to a person not acquainted with the use of the English language in America—"drivers permitting their horses to *run* upon any occasion whatever are guilty of misde-meanor."

The fourth title is upon the general police of the State, and regulates all minor matters of social economy. The subjects here treated of are too numerous to mention; the following provisions may be selected as specimens containing matter of interest to the English reader. The State follows our standard of weights and measures, and our calendar of time. Money accounts are to be kept in the decimal currency of the United States. Horse-racing, prize-fighting, and cock-fighting, are strictly forbidden. The liquor licensing system is stringent. It is forbidden to sell intoxicating liquor to an habitual drunkard, or to any person to whom the seller has been requested by parent, husband, or wife not to sell it. The sale is forbidden on Sunday, and on any day of an election. Recreations, working, and travelling, are forbidden on Sunday, unless in cases of charity or necessity, or in attending a place of worship within twenty miles.

The above outline may perhaps serve to give some general idea of the contents of this code. We have called attention to the topics which appeared to us of most importance; and regret that our limits prevent a reference to many others well deserving of notice. In the course of our perusal of the code, we have remarked with some surprise, that many topics which occupy a large space in our law, are scarcely touched upon, or are wholly omitted. For instance, we do not find any special laws relating to education, the poor, taxing and rating, customs, friendly societies, savings' banks, charities, and several other minor topics. We did not expect to find any State regulations concerning religion or churches, beyond the general declaration in the constitution securing the free exercise and enjoyment of religious profession and worship without discrimination or preference to all mankind.

The style and language of the code is in general clear and concise; but it appears to us, accustomed as we are to the careful exceptions and provisoes of our legislative style, to assume an air of completeness and perfection which would hardly bear the test of practical use. The fundamental doctrines of the code are laid down with great brevity; and thus a vast field is left open for judicial inference. On the other hand, in some small matters of social economy, we find sections running to great length, and some even in a style which should completely reconcile us to the worst specimens of confusion produced by our own Legislature.

Whether these codes will be adopted as law, and answer the expectations of their authors, remains to be seen. In the meanwhile, we can sincerely offer our American brethren a large tribute of respect and admiration, for their earnest and energetic efforts to establish their law upon the basis which seems to them best adapted to their wants and institutions. We can assure them that we shall not be prevented by any feeling of jealousy from following their lead in any safe course of amendment, but shall accept with gratitude any beneficial results of the present experiment which shall appear capable of adoption into our own system. The happy reciprocal effect of law reforms in the two countries is admirably described by the New York commissioners, in terms with which we cordially coincide. In their first report, after speaking of the improvements borrowed from other systems and engrafted into their own, they proceed to say:—"So we have also seen the influence of our jurisprudence reflected back upon the country from which we derive our language and our laws; and reforms, readily admitted by our plastic Legislature, slowly adopted there, after having been tested by our experience; though the settled constitution and fixed habits of England might have prevented their origination in that country."

Societies and Institutions.

INTERNATIONAL STATISTICAL CONGRESS.

The several Sections of the Congress met on Tuesday morning at Somerset-house and King's College. The business of the first Section relating to judicial statistics, and the election of officers of the Department, was brought before the Congress, when

Dr. ASHER proposed Lord Brougham as President of this Section. The motion was received with acclamation, and unanimously adopted.

Colonel DAWSON proposed as Foreign Vice-President, Dr. Asher, who was unanimously elected.

Mr. LUMLEY then proposed the Right Hon. Joseph Napier and Sir W. Page Wood, as Vice Presidents, who were unanimously elected.

On the motion of Mr. Commissioner Hill, Mr. Samuel Redgrave, Mr. L. Levi, and Mr. Hill Williams, were elected English secretaries, and M. de Koulomzine, foreign secretary, of the Section.

Lord Brougham and Dr. Asher undertook the office of reporters to the Congress.

After a short address by Lord Brougham, Mr. Levi made a statement of the proceedings of the previous Congresses in the matter of judicial statistics, and Dr. Asher made some observations on the difficulties experienced as to the nomenclature of crimes, for international comparison.

Mr. LEVI then submitted to the meeting the resolutions which were embodied in the programme; and after a discussion, in which the foreign delegates took an important part, the resolutions, having undergone numerous modifications, were adopted in the following form:—

"1. That the systematic collection and publication of facts relating to the operation of the law and the administration of justice by a complete system of judicial statistics would afford most valuable materials whereby to institute wise and permanent legal reforms, and would furnish information of great importance illustrative of the social and moral wants of the people.

"2. That judicial statistics should relate to the organization and procedure of all courts of justice and other legal tribunals, whether civil, commercial, ecclesiastical, military, naval, criminal, or of whatever nature, and also to inquests, police, crimes, and criminals, punishments, prisons and reformatories, and the results of legal proceedings.

"3. That the statistics relating to the organisation of courts of justice, as well general as local, should exhibit the number of the courts, with their geographical area, the nature and the extent of their jurisdiction, the number, the requisite qualification, mode of appointment, and the tenure of office of the judges, jurors, if any, and the officers of the court: the mode and extent of their remuneration, including the retiring allowances, if any, the fees levied, the costs allowed, number of days and hours such courts, judges, jurors, and officers sat or were employed, with such other information relating to population, taxation, trading, shipping, &c., as may best show the relation of the means afforded for the due administration of justice to the character of different districts and the wants of the people.

"4. That the statistics of juries should show the number and description of jurors in the book, the number called during the year for one or more times, the number of days and hours the jurors were employed; the number of trials by jury in civil and criminal cases, distinguishing special juries, the remuneration of juries, the number of jurors who compose the jury, the cases where trial by jury is obligatory, the cases where it is optional, and the cases where being optional the parties prefer being tried by the judge; the number of trials by jury in which the juries were unanimous or have given their verdicts by a mere majority or by some larger proportion; the number of juries discharged, and on what grounds; the number of verdicts set aside, and on what grounds."

The Section then adjourned until the following day.

July 18.—The Section met relating to judicial statistics again this day, when the President, Lord Brougham, took the chair. There were also present, the Right Hon. Joseph Napier and Dr. Asher, Vice-Presidents; Mr. Redgrave, Mr. L. Levi, and Mr. J. Hill Williams, Secretaries.

Agob Effendi and M. Das were elected foreign vice-presidents, and M. Koulomzine was chosen foreign-secretary.

The consideration of Mr. Levi's paper was resumed, and several additional resolutions were agreed to. They all contain suggestions for obtaining more perfect statistics of the procedure of the civil and criminal courts of all nations.

M. Baumhauer, a member of the Commission appointed by the Vienna Congress, presented a statement on a comparison of the penal laws of Belgium, France, the Netherlands, and the kingdom of Saxony, and gave a brief analysis of the contents of his paper.

A paper, entitled "A few words why the Judicial Statistics of England should be extended to Ireland," by Mr. Bullen, was presented to the Section.

The Section then adjourned till the following day.

July 19.—The first Section upon Judicial Statistics met again this day, when there were present Lord Brougham, the President, in the chair.

The section resumed the consideration of Mr. Leone Levi's paper. The various propositions contained in the paper were discussed at length. Much information was elicited on different points of interest. The following gentlemen took an active part in the business of the meeting:—Dr. Baumhauer, M. Iaarleff, M. Fougstad, Mr. Pitt Taylor, Mr. Commissioner Hill, Mr. Neeson, the Common Serjeant, Mr. Lumley, Sir Francis Goldsmid, and others. The Section agreed to a series of 22 resolutions, defining the manner in which the judicial statistics of all countries should be compiled.

Mr. Edward James presented to the Section a paper on the "Comparative Liability of Males and Females to various kinds of Crime."

The Section then adjourned until to-morrow, when the business will commence with the reading of Mr. Hill Williams' paper on the "Registration of Real Property."

Obituary.

SIR WILLIAM HORNE, KNT.

On Friday, the 13th instant, Sir William Horne died at his residence in Harley-street, at the advanced age of 87 years. Although the deceased knight had for several years retired into private life, he was well known to the members of the legal profession as a distinguished leader of the bar, and as having filled some of the most important positions connected with the practice of the law. Sir William Horne was called to the bar by the Honourable Society of Lincoln's-inn as far back as the year 1798. In 1818, he was made King's Counsel and a Bencher of Lincoln's-inn. On the accession of his Majesty King William IV., he was appointed Attorney-General to Queen Adelaide. He held the appointment but a short period, for in the same year he was made His Majesty's Solicitor-General, which he held until the year 1832, when he became Attorney-General. This office he resigned on being offered a seat on the bench of the Court of Exchequer, which he accepted, but almost immediately afterwards declined. He, however, ceased to hold the office of Attorney-General, the present Lord Chancellor having in the meantime received the appointment. In 1839, Sir William was appointed one of the Masters in Chancery, which he held until the year 1853, when he retired into private life. In 1831, he was elected M.P. for the borough of Newton. In 1832, he was returned for Marylebone, and was, we believe, the first member of that borough upon its being made a constituency after the passing of the Reform Bill. He represented Marylebone until 1835, when he retired from Parliament.

THOMAS NICKS, ESQ.

We have to record this week the death of Thomas Nicks, Esq., the much respected registrar of the county court at Warwick, whose death occurred on Friday, the 13th instant, to the regret of a large circle of friends and clients, by whom he was regarded as an honourable and upright man. The deceased commenced practice as a solicitor at Warwick, his native town, in the year 1845, and so soon after as the year 1847 he was appointed assistant clerk to the county court, which office he filled until 1856, when he became the registrar of the court. Independently of the public offices which he held, he had a large and lucrative business, which he had attained by his own perseverance and industry. His death was premature, Mr. Nicks being only in his 42nd year when he died, and it is believed that an accident

which occurred in 1858 consequent upon a severe fall, produced an internal derangement of his system, which brought on the painful disease that caused his death at so early an age. We are glad to bear our testimony to the private and public worth of a member of the profession so universally respected as the subject of this notice. The learned judge of the county court addressed some feeling observations in reference to the melancholy event, and the loss which the Court had sustained by the death of its registrar.

Law Students' Journal.

LECTURES AT THE INCORPORATED LAW SOCIETY.

The Council of this Society have elected Mr. FREDERICK JOHN TURNER to deliver a course of Lectures on Conveyancing; Mr. GEORGE WIRGMAN HEMMING, on Equity; and Mr. FREDERICK MEADOWS WHITE, on Common Law and Mercantile Law.

The lectures will commence in next Michaelmas term, and be continued until the end of the several courses in March.

LORD BROUGHAM.—The following is extracted from the "British Quarterly" of this month:—Without wealth or aristocratic connection, and in spite of the disadvantage of professional distractions, he rose to an eminence in the State which no lawyer but Eldon and Mansfield ever attained in modern times, and he acquired a weight in public affairs which in 1830 made him almost a political dictator. He attained this position in part by his genius, in part by his natural energy and boldness, but chiefly by his untiring exertions in the cause of good government throughout the empire. From 1810 to 1830 he was one of the greatest iconoclasts in our history—exposing abuses, denouncing bad laws, and removing checks on national progress; and, even at that period, in his reforms of education and the law, he proved himself to be a very efficient legislator. When he came into power he was, probably, a bad party leader—too dictatorial, excitable, and uncompromising; and, as a minister, he disappointed public expectation, although he accomplished great results, and he evinced real and sterling patriotism. We think him entitled to the highest honour for having stood as a mediator between the House of Lords and the people, in the menacing crisis of the Reform Bill, and for having braved and withstood the unpopularity which he must have known would be the inevitable consequence. Since 1835 he has sunk in reputation as a statesman, on account, chiefly, of his isolation from party, and not in consequence of any real demerits; and his exertions as a social reformer in this period deserve the greatest honour and commendation. As a lawyer, though not among the lights of the forum, either as a jurist or a practitioner, he displayed considerable vigour and ability; and his judicial faculties, if not on a par with those of Lord Stowell, Lord Mansfield, and Lord Hardwicke, are certainly of a very high order. His oratorical gifts were many and brilliant—command of language, energy in debate, scathing invective, and powerful irony; but he wanted art in arranging his topics; his speeches fail when studied in the closet; and his style was defaced by a heavy verboseness. As a man of letters he will not rank very high, for literature with him was merely an amusement; and although from this point of view his works are wonderful, and display much capacity of analysis, keen critical skill, and a mastery over illustration, they have not the characteristics of genius and thought which will make them live in the English language. It is a social reformer, a promoter of education, and a thorough, yet practical improver of our law, that Lord Brougham will obtain the applause of posterity; and for these services, we venture to predict, that his memory will long survive in England.

Births, Marriages, and Deaths.

BIRTHS.

AUSTIN—On July 17, the wife of R. Cecil Austin, Esq., Barrister-at-Law, of a daughter.

EDWARDS—On July 15, the wife of John Edwards, Esq., Solicitor, St. Swithin's-lane, E.C., of a daughter.

LYNE—On July 13, at Porthpean, Cornwall, the wife of De Castro F. Lyne, Barrister-at-Law, of a daughter.

PAYNE—On July 13, the wife of George Augustus Payne, Esq., M.A., Barrister-at-Law, of a son.

TREVENEN—On July 14, at Helston, Cornwall, the wife of William Trevenen, Esq., Solicitor, of a daughter, since dead.

MARRIAGES.

BOMPAS—BUCKLAND—On July 11, George Cox Bompas, Esq., eldest surviving son of the late Mr. Serjeant Bompas, to Mary Ann Scott Buckland, eldest daughter of the late Very Rev. William Buckland, D.D., Dean of Westminster.

HARVIE—WEBB—On May 16, at Richmond, near Melbourn, Montague, eldest son of H. H. Harvie, Esq., Solicitor, North Devon, to Mary, eldest daughter of the late R. S. Webb, Esq., formerly of H.M. Customs, Sydney.

NORTON—WORTHINGTON—On July 12, Edmund Palmer, eldest son of Edmund Norton, Esq., Solicitor, of Lowestoft, Suffolk, to Hester Sarah, third daughter of William C. Worthington, F.R.C.S., of the same place.

STEPHENSON—PLATT—On July 12, Alexander Erskine, youngest son of the late Major John Stephenson, 6th Dragoon Guards, to Adela Louisa, youngest daughter of the late Samuel Platt, Esq., of the Western Circuit.

THOMPSON—HIRST—On July 12, William Thompson, Esq., of King's-road, Bedford-row, to Sophia, youngest daughter of William Hirst, Esq., of Boroughbridge.

DEATHS.

COOPER—On July 9, at Blackrock, in the 59th year of her age, Eliza, wife of Edward Wilson Cooper, Esq., Solicitor.

HORNE—On July 13, at Harley-street, Sir William Horne, aged 87 years.

LUPTON—On July 17, aged 84, Mr. Samuel Lupton, of Otley. The deceased was for many years a faithful servant to the late James Shaw, Esq., of that town; and up to within the last ten years of his life managed the Otley Waterworks under his son, John Hope Shaw, Esq., of Leeds.

RODHAM—On May 12, at Dowlishwarem, Madras, aged 22 years, Charles James, second son of William Rodham, Esq., Solicitor, Wellington, Somerset.

SOWTON—On July 15, suddenly, William March Sowton, Esq., of the Inner Temple, Barrister-at-Law, aged 44.

VAUGHAN—On July 9, Louisa, the Dowager Lady St. John, of Bletsoe, and relict of the Right Hon. the late Mr. Justice Vaughan.

WESTON—On July 17, Henry, youngest son of Ambrose Weston, Esq., of Lincoln's-inn, Barrister-at-Law, aged 28.

WILSON—On July 13, William Miller Wilson, Solicitor, Margate, aged 40.

WRIGHT—On July 13, at Margate, Louisa King Wells, niece of the late James Edward Wright, Esq., Solicitor, aged 26.

English Funds and Railway Stock.

(Last Official Quotation during the week ending Friday evening.)

	ENGLISH FUNDS.	
	Bank Stock	228½
	3 per Cent. Red. Ann.	93½
	3 per Cent. Cons. Ann.	93⅝
	New 3 per Cent. Ann.	93⅝
	New 2½ per Cent. Ann.	76⅛
	Consols for account	93⅜
	Long Ann. (exp. Apr. 5, 1885)	..
	India Debentures, 1858.	..
	Ditto 1859.	97
	India Stock	218
	India Loan Scrip.	..
	India 5 per Cent. 1859.	104½
	India Bonds (£1000)	6 dis.
	Do. (under £1000)	..
	Exch. Bills (£1000)	..
	Ditto (£500)	4 p.
	Ditto (Small)	4 p.
	RAILWAY STOCK.	
Shrs.		
Stock	Birk. Lan. & Ch. Junc.	80
Stock	Bristol and Exeter	107
Stock	Caledonian	94⅛
20	Cornwall	7
Stock	East Anglian	16⅜
Stock	Eastern Counties	56⅜
Stock	Eastern Union A. Stock	38
Stock	Ditto B. Stock	27
Stock	East Lancashire	..
Stock	Edinburgh & Glasgow.	78
Stock	Edin. Perth, & Dundee	31
Stock	Glasgow and South-Western	107
Stock	Great Northern	116½
Stock	Ditto A. Stock	115⅝
Stock	Ditto B. Stock	136
Stock	Gt. Southn. & Westn. (Ireland)	114
Stock	Great Western	..
Stock	Lancaster and Carlisle.	..
	Ditto Thirds	..
	Ditto New Thirds	..
Stock	Lancash. & Yorkshire	107¾

	RAILWAYS—*Continued.*	
Shrs.		
Stock	London and Blackwall.	71
Stock	Lon. Brighton & S. Coast	115½
25	Lon. Chatham & Dover	12⅜
Stock	London and N.-Wstrn.	102⅝
12½	Ditto Eighths	12⅝
Stock	London & S.-Westrn.	95⅛
Stock	Man. Sheff. & Lincoln.	41
Stock	Midland	120
Stock	Ditto Birm. & Derby	98
Stock	Norfolk	57
Stock	North British	64⅛
Stock	North-Eastn. (Brwck.)	98⅛
Stock	Ditto Leeds	53⅜
Stock	Ditto York	84
Stock	North London	106
Stock	Oxford, Worcester, & Wolverhampton	46
20	Portsmouth	16
Stock	Scottish Central	117
Stock	Scot. N. E. Aberdeen Stock	31½
Stock	Do. Scotsh. Mid. Stk.	88
Stock	Shropshire Union	52
Stock	South Devon	45⅜
Stock	South-Eastern	85½
Stock	South Wales	67⅛
Stock	S. Yorkshire & R. Dun	82
25	Stockton & Darlington	41
Stock	Vale of Neath	54
	Lines at Axed Rentals.	
Stock	Buckinghamshire	98
Stock	Chester and Holyhead.	52½
Stock	Ditto 5½ per Cent.	129
Stock	Ditto 5 per Cent	115
Stock	East Lincoln, guar. 6 per Cent	140
50	Hull and Selby	114
Stock	London and Greenwich	64
Stock	Ditto Preference	120
Stock	Lon., Tilbury, Sthend.	93
Stock	Shrewsbury & Hereid.	104
Stock	Wilts and Somerset	93

Unclaimed Stock in the Bank of England.

The Amount of Stock heretofore standing in the following Names will be transferred to the Parties claiming the same, unless other Claimants appear within Three Months:—

BAKER, RICHARD, Gent., St. Paul's-churchyard, and Rev. JOHN GUARD, of Pembridge, Herefordshire, one dividend on the sum of £4,150 Reduced.—Claimed by Rev. JOHN GUARD, sole executor of Mary Ann Guard, Spinster, who was the surviving executor of William Guard, who was the sole executor of the Rev. John Guard, who was the survivor.

ESGHAUSEN, JOHN, Yeoman, Great Billing, Northamptonshire, and SOPHIA ESGHAUSEN, Spinster, Colney-hatch (since wife of Daniel Mullins, Gent., Colney-hatch), £100 New 3 per Cents.—Claimed by DANIEL MULLINS, the person named in the said order.

GILBERT, MARY ANN, Widow, Eastbourn, Sussex, JANE MARY ENYS, and MARY ANN ENYS, Minors, Spinsters, both of St. Glavias, Cornwall, £200 Consols.—Claimed by JANE MARY ENYS, and MARY ANN ENYS, Spinsters.

HINE, RICHARD, Grocer, Beaminster, Dorsetshire, four dividends on the sum of £550 New £3 10s. per Cents.—Claimed by ROBERT CONWAY, one of the executors.

NEWNHAM, WILLIAM, Esq., Park-crescent, Portland-place, and MARY NEWNHAM, his wife, £27 9s. 1d. Consols.—Claimed by MARY NEWNHAM, Widow, the survivor.

TRIPP, HENRY EAST, Coach Smith, George-street, Oxford-street, and THOMAS TRIPHOOK, Stationer, King's-road-terrace, Chelsea, £25 Consols.—Claimed by THOMAS TRIPHOOK, the survivor.

WALKER, DAVID PALMER, Timber Merchant, Emsworth, Southampton, Four Dividends on various sums of Stock in the 3 per Cents.—Claimed by FRANCES STEVENS, now wife of Daniel Wells Stevens (formerly Frances Walker, Widow) administratrix of the said David Palmer Walker.

London Gazettes.

Creditors under 22 & 23 Vict. cap. 35.

Last Day of Claim.

TUESDAY, *July* 17, 1860.

ADAMS, ROBERT MOSEBURY, Merchant, 130, Fenchurch-street, London, and 23, Park-place, Milton next Gravesend, Kent (who died on June 8, 1860). Richardson & Wansey, Solicitors, 50, Moorgate-street, London, E.C. Aug. 27.

DIXON, JOSEPH, Gent., Kensington-place, Walcot, Somersetshire (who died, on March 11, 1858). Tucker & Tucker, Solicitors, 9, New Bond-street, Bath. Aug. 26.

DONNER, JOHN, Sen., Farmer, Wrangle, Lincolnshire (who died on Feb. 11 1858). Rice, Solicitor, Boston, Lincolnshire. Aug. 1.

FRASER, ALEXANDER, Esq., Galwick House, Chariwood, Surrey (who died on Nov. 14, 1859). Davidson, Bradbury, & Hardwick, Solicitors, 29, Basinghall-street, London, E.C. Oct. 1.

KILLETT, ELIZABETH, Widow, Glover, 49, King's-road, Brighton (who died on or about Dec. 28, 1859). Stevens, Solicitor, 8, Gloucester-place, Brighton. Aug. 20.

MOORHOUSE, WILLIAM, Greengrocer, Huddersfield (who died on or about April 18, 1860). Laycock & Dyson, Solicitors, St. George's-square, Huddersfield. July 30.

PALMER, MARY, Spinster, Alldridge, Staffordshire (who died in June, 1860). King, Solicitor, Temple-chambers, Birmingham. Aug. 6.

PRATFIELD, REV. JOHN, Clerk, West Bridgford, Nottinghamshire (who died on or about Oct. 14, 1859). Shilton, Solicitor, St. Peter's Church Side, Nottingham. Sept. 14.

ROBINSON, MARGARET, Spinster, Grove House, near Bowness, Windermere, Westmorland (who died on April 15, 1859). Taylor, Solicitor, Windermere. Aug. 1.

THOMPSON, ELIZABETH, Widow, St. Bees, Cumberland (who died on or about June 30, 1859). Hodkin, Solicitor, Whitehaven. Aug. 13.

FRIDAY, *July* 20, 1860.

BAMFORD, HUGH, Maltster, Henley-upon-Thames, Oxford (who died on March 27, 1860). Samuel & John Cooper, Solicitors, Henley-upon-Thames. Sep. 15.

BEDFORD, HENRY, Gent., 47, Upper Albany-street, Regent's-park, and 4, Gray's-inn-square, Middlesex (who died on October 9, 1859). Taylor, Solicitor, 3, Field-court, Gray's-inn. Aug. 21.

CROSLEY, JAMES, Gent., Milverton, Somersetshire (who died on April 1, last). Executors, Hill & Broadmead, both of Langport, Somersetshire. Aug. 21.

CRAPE, ARTHUR WILLIAM, Esq., 12th Royal Lancers, and Charing-cross, Middlesex (who died on May 1, 1860). Taylor, Solicitor, 3, Field-court, Gray's-inn. Aug. 21.

DEW, JAMES, Carpenter, Avebury, Wilts (who died on April 15, 1860). Norris, Solicitor, Devizes, Wilts. Sep. 1.

GREEN, JAMES ALLEN, Gent., 2, James-street, Adelphi, Middlesex (who died on May 5, 1859). Tippetts & Son, Solicitors, 2, Size-lane, London. Aug. 21.

HOLMES, ALICE, Spinster, High Beckfoot, Barbon, Kirkby Lonsdale, Westmoreland (who died on or about March 29, last). W. R. Gregg & H. A. Gregg, Solicitors, Kirkby Lonsdale. Oct. 1.

LOE, JAMES, Builder, Guildford, Surrey (who died on May 1, 1860). Capes, Solicitor, Guildford, Surrey. Oct. 18.

MAUNDER, WILLIAM, Esq., 6, Coles-terrace, Barnsbury, Middlesex (who died in or about April last). Mardon, Solicitor, Christchurch-chambers, 99, Newgate-street, London. Sep. 21.

MITCHELL, HANNAH, Widow, heretofore of Pitney, afterwards of Taunton and late of Charlton Mackrell, Somersetshire (who died on Sep. 20, last). Hill, Solicitor, Langport, Somersetshire. Aug. 31.

PLATT, LIEUTENANT-COLONEL JOHN, late of the 23rd Regiment R.N.L., (who died on July 1, 1857). Eades, Solicitor, Evesham. Aug. 31.

PONTIN, JOSEPH, Victualler, Mason's Arms Inn, Andover, Southampton (who died on Dec. 2, 1859). Footner, Solicitor, Andover, Aug. 31.

RAND, WILLIAM, Brickmaker, High Ongar, Essex (who died on May 31, 1860). Gibson, Solicitor, Ongar, Essex. Sept. 1.

STOCKLEY, WILLIAM, Esq., Charlton, Kent (who died in or about April last). Mardon, Solicitor, Christchurch-chambers, 99, Newgate-street, London. Sept. 21.

TAYLOR, ELIZABETH, Widow, Brunswick-square, Penrith, Cumberland (who died on May 24, 1859). Taylor, Solicitor, Windermere, Westmoreland. Sept. 1.

Creditors under Estates in Chancery.

Last Day of Proof.

TUESDAY, *July* 17, 1860.

ATKINSON, JAMES, Gent., Hunslet, Leeds (who died on or about Oct. 9, 1859). Wilkinson and Others *v.* Smith and Another, V.C. Stuart. Oct. 31.

KING, CHARLES, Esq., Broomfield-place, Essex, and Montague-square, Middlesex (who died in or about Sept. 1850). King *v.* King and Another, V.C. Kinderaley. Aug. 4.

NEWDON, CHARLES, Gent., St. Swithin's-lane, London, and Grosvenor-park, Camberwell, Surrey (who died in or about Oct. 1859). Murray *v.* Newbon, M.R. Oct. 29.

THOMSON, JAMES DUNCAN, Esq., Porchester-terrace, Bayswater, Middlesex (who died in or about June, 1851). Leathes *v.* Thomson, M.R. Oct. 29.

WILKINSON, ELIZABETH DOLLINSON, Widow, Rope Makers Fields, Limehouse, Middlesex, and Kingsteignton, Devonshire (who died on or about Dec. 23, 1859). Whiteway *v.* Fisher and Others, V. C. Stuart. Nov. 1.

(County Palatine of Lancaster).

SERGEANT, WILLIAM, Innkeeper, Preston (who died on or about Aug. 28, 1858). Registrar Court of Chancery county palatine of Lancaster, 19, Camden-place, Preston. Robinson *v.* Sergeant and Others. Aug. 13.

FRIDAY, *July* 20, 1860.

BENZAQUEN, SOLOMON, Union-court, Old Broad-street, London, and 28, Shrubland-road, Dalston, Middlesex (who died on or about Sept. 16, 1859). Hellaby *v.* Benzaquen, M.R., Nov. 3.

LUCAS, ELIZABETH ANN, Spinster, 11, Bolton's West Brompton, Middlesex (who died in or about May, 1860). Mawe *v.* Heaviside, V. C. Kindersley. Nov. 3.

NEWTON, LANCELOT, Brewer, Tansor, Northamptonshire (who died in or about March, 1860). Webster *v.* Newton, V. C. Kindersley. Nov. 12.

Assignments for Benefit of Creditors.

TUESDAY, *July* 17, 1860.

COLE, GEORGE SAMUEL, Fancy Draper, Devonport. July 14. *Trustee*, W. E. Ball, Accountant, Bradford-chambers, Plymouth. *Sol.* Greenway, Plymouth.

DAVIES, JAMES, Innkeeper & Butcher, Crown Inn, Rhayader, Radnorshire. June 28. *Trustees*, E. R. Dolelfe, Farmer, St. Harmon, Radnorshire; S. Meddins, Maltster, Llanidloes, Montgomeryshire. *Sol.* Jenkins, Llanidloes.

DRAPER, THOMAS, Publican, Market Rasen, Lincolnshire. July 11. *Trustees*, G. Winter, Butcher, Market Rasen, Lincolnshire; E. Mann, Currier, Lincolnshire. *Sol.* Saffery, Market Rasen, Lincolnshire.

GOODRICH, GEORGE, Chemist, Druggist, Stationer, & Bookseller, Dursley, Gloucestershire. July 3. *Trustee*, Brown, Accountant, Stroud. *Sol.* Bloxsome, Dursley.

GRIFFITHS, THOMAS, Grocer, Wern Ystalyfera, Glamorganshire. June 29. *Trustees*, William Walter, & William Henry Tucker, Merchants, Swansea. *Sol.* David, Swansea.

GRAY, JOHN WALTER, Hat Manufacturer, Wearmouth, Durham. June 22. *Trustee*, A. Shewell, Merchant, Bloomsbury-square, London, Middlesex. *Sol.* Robinson, 23, Lambton-street, Sunderland.

INGRAM, WILLIAM, General Dealer, Stamford-villas, Fulham, Middlesex (P. Houghton & Co.). July 12. *Trustees*, L. Hausmeister, Warehouseman, Wood-street, Cheapside; E. Glenny, Cabinet Maker, Mildmay-street, Stoke Newington, Middlesex. *Sol.* Reed, 3, Gresham-street, London.

KING, ARTHUR, Draper, Cambridge. June 29. *Sol.* W. E. Lilley, Draper, Cambridge. *Sol.* Adcock, Cambridge.

MASON, RICHARD, Farmer, Rothwell, Northampton. June 18. *Trustee*, E. Hoyland, Bill Broker, 113, Leadenhall-street, London. *Sol.* Miller, George-yard, Lombard-street, London.

SMITH, BENJAMIN, Miller, Boxted, Essex. July 4. *Trustees*, R. Stannard, Miller, Bures St. Mary, Suffolk; P. Mason, Miller, Dedham, Essex. *Sols.* Newman & Harper, Town-hall, Hadleigh.

STRAKER, HENRY, Currier, 10, Trafalgar-street, Walworth, Surrey. July 11. *Trustees*, C. Hays, Licensed Victualler, Bermondsey New-road, Surrey; W. T. Harrod, Accountant, 136, Leadenhall-street, London. *Sol.* Carr, London.

THOMAS, WILLIAM, Leather Cutter, Plymouth. June 22. *Trustee*, R. Hooper, Currier, Plymouth. *Sols.* Elsworthy, Curtis, & Dawe, 6, Courtenay-street, Plymouth.

WILLIAMSON, JOSEPH, Ironfounder, Hazel-grove, Stockport. June 20.

Trustees, W. A. Jenner, Iron Merchant, Salford; J. Thackrah, Joiner & Builder, Stockport. *Sol.* Boote, 52, Brown-street, Manchester.

FRIDAY, *July* 20, 1860.

ANGUS, WILLIAM, Currier & Leather Seller, Liverpool. June 25. *Trustees*, R. Munday, Leather Factor, 5, North-view, Mount Vernon, Liverpool; J. R. Barrow, Leather Factor, 24, Blackfield-terrace, Kirkdale, near Liverpool. *Sol.* Teebay, 10, Sweeting-street, Castle-street, Liverpool.

BAKER, GEORGE, Farmer, Sedlescomb, Sussex, July 14. *Trustees*, W. Gorringe, Farmer, Buxted, Sussex; R. Flint, Grocer, Battle, Sussex. *Sol.* Kell, Battle.

BARTHO, JOHN, Currier, Kingston-upon-Hull. June 20. *Trustees*, J. W. Davis, Dyer, 20, George-street, Kingston-upon-Hull; G. Dawson, Tanner & Currier, 25, Lister-street, Kingston-upon-Hull. *Sol.* Mends, 98, Coltman-street, Kingston-upon-Hull.

EDWARDS, WILLIAM, Innkeeper, Wem, Salop. July 13. *Trustee*, W. Gough, Coal Merchant, Wem. *Sol.* Barker, Wem.

HAINING, ROBERT, Draper and Tailyman, 16, Philpot-street, Commercial-road, Middlesex. June 21. *Trustee*, B. Smith, Warehouseman, St. Martin's-le-Grand. *Sol.* Marden, 99, Newgate-street.

HAMES, JOHN, Brick and Tile Manufacturer, Bagper, Sturminster, Newton, Dorsetshire. July 13. *Trustees*, R. Fifett, Yeoman, Lynfinch, Dorsetshire; G. E. Parham, Timber Merchant, Lydfinch. *Sol.* Dashwood, Sturminster.

MANN, ELIZABETH, Grocer and Seedswoman, Thirsk, Yorkshire. July 9. *Trustees*, W. Stead, Seedsman, Bradford; S. S. Wood, Tobacco Manufacturer, Leeds. *Sol.* Rider, Thirsk.

MARNS, GEORGE THOMAS, Rope Maker, Arbour-place, Stepney. June 22. *Trustees*, J. Johnson, Hemp Merchant, King-street, Tower-hill; W. Anderson, Plumber, Ratcliffe-cross. *Sols.* J. & W. Butler, 191, Tooley-street, London-bridge.

SCOTT, BENJAMIN, & RALPH IDLE, Blanket Manufacturers, Earlsheaton, Dewsbury, Yorkshire. July 7, *Trustees*, J. Firth, Joiner, Dewsbury; G. Champion, Woolstapler, Hull. *Sol.* Scholes, Dewsbury.

Bankrupts.

TUESDAY, *July* 17, 1860.

ARMSTRONG, JOHN WILLIAM, Yarn Agent, Manchester. Aug. 15 and 30, at 12; Manchester. *Off. Ass.* Hernaman. *Sol.* Richardson, Dickinson-street, Manchester. *Pet.* July 14.

BATT, CHARLES LE, Messman, Exeter Barracks, Exeter. *Com.* Andrews: July 26, and Aug. 30, at 11; Exeter, *Off. Ass.* Hirtzel. *Sol.* Willesford, Exeter. *Pet.* July 10.

COOPER, JESSE, Outfitter, Commercial-road, Newport, Monmouthshire. *Com.* Hill: July 27, and Aug. 28, at 11; Bristol. *Off. Ass.* Acraman. *Sols.* Brittan & Sons, Bristol. *Pet.* July 10.

EDMONDS, WILLIAM HENRY, Horse Dealer, Miller, & Baker, Wroughton, Wilts. *Com.* Hill: July 31, and Sept. 4, at 11; Bristol. *Off. Ass.* Miller. *Sols.* Kinneir, Swindon; or Prideaux, Bristol. *Pet.* July 14.

HOLGATE, GEORGE, Grocer, Halifax, Yorkshire. *Com.* Ayrton: July 30, and Aug. 27, at 11; Leeds. *Off. Ass.* Hope. *Sols.* Holroyd & Cronhelm, Halifax; or Bond & Barwick, Leeds. *Pet.* July 13.

JAMES, BENJAMIN, Currier & Shoe Maker, Brierley Hill, Staffordshire. *Com.* Sanders: July 27, and Aug. 17, at 11; Birmingham. *Off. Ass.* Whitmore. *Sols.* Hodgson & Allen, Birmingham; or Horner, Brierley Hill. *Pet.* July 16.

JAMES, GEORGE FREDERICK, Elastic Web & Smallware Manufacturer, Manchester. July 31, and Aug. 16, at 12; Manchester. *Off. Ass.* Pott. *Sol.* Richardson, Dickinson-street, Manchester. *Pet.* July 6.

KILBY, WILLIAM, Contractor & Builder, Church End, Willesden, Middlesex. *Com.* Holroyd: July 28, at 11; and Aug. 28, at 1.30; Basinghall-street. *Off. Ass.* Lee. *Sol.* Melton, 6, Bedford-row, Holborn, London. *Pet.* July 5.

LEVY, LEWIS, Merchant, Savannah, United States, America, and Gravel-lane, London. *Com.* Holroyd: July 28, at 11.30; and Aug. 28, at 12.30; Basinghall-street. *Off. Ass.* Lee. *Sols.* Lawrance, Plews, & Boyer, 14, Old Jewry-chambers, London. *Pet.* July 14.

READ, FRANCIS BENNETT JOHN, Butcher, Leadenhall Market, London, and 12, Upper North-street, Bethnal Green, Middlesex. *Com.* Holroyd: July 28, at 12; and Aug. 28, at 2; Basinghall-street. *Off. Ass.* Edwards. *Sol.* Selsby, 2, Fen-court, Fenchurch-street, London. *Pet.* July 12.

SULLIVAN, JOHN GILES, Boot & Shoe Manufacturer, 55, Blackman-street, Southwark, Surrey. *Com.* Holroyd: July 31, at 1; and Sept. 4, at 12; Basinghall-street. *Off. Ass.* Lee. *Sol.* Abrahams, 17, Gresham-street, London. *Pet.* July 14.

FRIDAY, *July* 20, 1860.

APPLEYARD, WILLIAM, Plumber & Glazier, Kingston-upon-Hull. *Com.* Ayrton: Aug. 1 & 29, at 12; Kingston-upon-Hull. *Off. Ass.* Carrick. *Sols.* Bell, Kingston-upon-Hull; or Reed, Kingston-upon-Hull. *Pet.* July 18.

DIXON, GEORGE, & JAMES CHARLES ADCOCK, Coach Lace Manufacturers & Carpet Dealers, Aldersgate-street, London, and Coventry. *Com.* Holroyd: July 30, at 2.30; and Sept. 4, at 2; Basinghall-street. *Off. Ass.* Edwards. *Sol.* Marden, Christchurch-chambers, 99, Newgate-street, London. *Pet.* July 11.

DUNNINGTON, HENRY, Glove Cloth Manufacturer, Nottingham. *Com.* Sanders: Aug. 2 & 23, at 11.30; Nottingham. *Off. Ass.* Harris. *Sols.* Roit, Skinner's-lane, Size-lane, London; or Wadsworth & Watson, Nottingham. *Pet.* July 11.

GREEN, JOHN, Commission Agent, 1, Philpot-lane, London. *Com.* Holroyd: July 30, at 12; and Sept. 4, at 12; Basinghall-street. *Off. Ass.* Lee. *Sols.* Miller & Horn, 9, George-yard, Lombard-street, London. *Pet.* July 18.

HUGHES, WILLIAM. Grocer & Provision Dealer, Leicester. *Com.* Sanders: August 2, and 23, at 11.30; Nottingham. *Off. Ass.* Harris. *Sol.* Haxby, Leicester. *Pet.* July 17.

JUKES, JOSEPH, Iron Master & Smelter, Eyton Lodge, Ruabon, Denbighshire. *Com.* Perry: August 10 and 30, at 12; Liverpool. *Off. Ass.* Turner. *Sols.* Evans, Son, & Sandys, Liverpool. *Pet.* July 14.

LAVATER, MANUEL LEOPOLD JONAS, India Rubber Manufacturer, 416, Strand, Middlesex. *Com.* Holroyd: July 31, and September 4, at 12.30; Basinghall-street. *Off. Ass.* Lee. *Sol.* Preston, 11, Austin-friars, London. *Pet.* July 18.

MUIR, JOHN, Draper, Cogan-street, Kingston-upon-Hull. *Com.* Ayrton. August 1 and 29, at 12; Kingston-upon-Hull. *Off. Ass.* Carrick. *Sol.* Eaton, Kingston-upon-Hull. *Pet.* July 12.

PHILP, ROBERT KEMP, Publisher, 24, Great New-street, Fetter-lane, London. *Com.* Evans: Aug. 2, at 1, & Aug. 30, at 12; Basinghall-street. *Off. Ass.* Johnson. *Sols.* Ashurst, Son & Morris, Old Jewry. *Pet.* July 16.

RAVEN, JOSEPH, Wholesale & Retail Stationer & Account Book Manufacturer, 46, Fish-street-hill, London. *Com.* Goulburn: July 30, at 1, and Aug. 27, at 1; Basinghall-street. *Off. Ass.* Pennell. *Sol.* Keene, 77, Lower Thames-street, London. *Pet.* July 6.

RUSSELL, EDWARD, Leather Merchant, 138, Long-lane, Bermondsey, Surrey. *Com.* Holroyd: July 31, at 11.30, and Sept. 4, at 2.30; Basinghall-street. *Off. Ass.* Edwards. *Sols.* Lawrance, Plews, & Boyer, 14, Old Jewry-chambers, London. *Pet.* July 19.

SWORD, WILLIAM, Draper, Dewsbury, Yorkshire. *Com.* West: Aug. 3, and Sept. 3, at 11; Leeds. *Off. Ass.* Young. *Sols.* Walker, Dewsbury; or Cariss & Cudworth, Leeds. *Pet.* July 17.

WALKER, JOHN, & JAMES NEAVE, Builders & Contractors, 141, Southwark-bridge-road, Surrey. *Com.* Holroyd: July 31, at 2.30; and Sept. 4, at 1; Basinghall-street. *Off. Ass.* Edwards. *Sol.* Crowdy, 17, Serjeant's-inn, Fleet street, London. *Pet.* July 17.

WHITBURN, ALFRED FRANCIS, Brewer, Enfield, Middlesex. *Com.* Holroyd: July 30, at 2; and Sept. 4, at 1.30; Basinghall-street. *Off. Ass.* Lee. *Sol.* Hewitt, 4, Princes-street, London. *Pet.* July 18.

YOUNG, THOMAS, Tea & Coffee Dealer, 8, Temple-court, Liverpool. *Com.* Perry: July 30, and Aug. 22, at 11; Liverpool. *Off. Ass.* Morgan. *Sols.* Miller & Peel, Harrington-street, Liverpool; or Wright & Bonner, 15, London-street, Fenchurch-street, London, E.C. *Pet.* July 16.

MEETINGS FOR PROOF OF DEBTS.

TUESDAY, *July* 17, 1860.

HARRIS, WILLIAM, Merchant, Manchester. Aug. 7, at 12; Manchester. —PEARSON, BENJAMIN, & WILLIAM PEARSON, Coal Dealers & Grocers, Stratford-upon-Avon, Warwickshire, & Coal Dealers, Chipping Norton, Oxfordshire. Aug. 8, at 11; Birmingham.—WARD, FRANCIS, Victualler & Carpenter, Nottingham. Aug. 7, at 11.30; Birmingham.—WYLD, JOHN HOPTON, Wine & Spirit Merchant, Rectifying Distiller, & Compounder of Spirits, 83, Redcliff-street, Bristol. Aug. 17, at 11; Bristol.

FRIDAY, *July* 20, 1860.

SAMPSON, PAUL, Boot & Shoe Maker, Hythe, Kent. Aug. 10, at 11.30; Basinghall-street.

CERTIFICATES.

To be ALLOWED, *unless Notice be given, and Cause shown on Day of Meeting.*

TUESDAY, *July* 17, 1860.

HALL, SHIRLEY, Carpenter & Builder, Oldswinford, Worcestershire. Aug. 8, at 11; Birmingham.—PALMER, THOMAS, Maltster & Beer-shop Keeper, Wellesbourn, Warwickshire. Aug. 8, at 11; Birmingham.—SWEETLOVE, THOMAS, Chemist & Druggist, Great Bridge, Staffordshire. Aug. 9, at 11; Birmingham.—WALE, ALFRED, Hosier, Nottingham.—Aug. 7, at 11.30; Nottingham.—WALL, JOSEPH, & JOSEPH BUXTON, Wholesale Grocers & Hop Merchants, Manchester (Wall, Buxton, & Co.). Aug. 7, at 12; Manchester.—WELSH, JOHN WELLINGTON, Warp Sizer, Manchester. Aug. 7, at 12; Manchester.

FRIDAY, *July* 20, 1860.

BROWN, ROBERT, Brewer, Maltster, & Hop Merchant, Great Driffield, Yorkshire. Aug. 15, at 12; Kingston-upon-Hull.—FRANCE, EPHRAIM, & HENRY FRANCE, Woollen Manufacturers, Linthwaite, Almondbury, Yorkshire. Aug. 13, at 11; Leeds.—JONES, EDMUND, Hosier, 135, Fenchurch-street, London, and of Forden-cottage, East Dulwich, Surrey, and now of 1, Woodbine-villas, Bridge-road West, Battersea, Surrey. Aug. 10, at 1; Basinghall-street.—PERRY, MICHAEL, Passe Partouts Manufacturer, 11 & 12, Bloomsbury Market, Oxford-street, Middlesex. Aug. 10, at 1; Basinghall-street.—POOLEY, JOHN, Contractor & Builder, Liverpool and Peterborough. Aug. 10, at 11; Liverpool.—RICHARDSON, GEORGE, & TOMLINSON FRANCE, Cloth Merchants, Huddersfield. Aug. 27, at 11; Leeds.—ROACH, CHARLES, Hosier, Devizes, Wilts. Aug. 14, at 11; Bristol.—SAMPSON, PAUL, Boot & Shoe Maker, Hythe, Kent. Aug. 10, at 11.30; Basinghall-street.—TRENTER, HENRY, Butcher, St. Matthew's-street, Ipswich, Suffolk. Aug. 10, at 11; Basinghall-street.—WAITE, ALEXANDER, Draper, Berwick-upon-Tweed. Aug. 15, at 11.30; Newcastle-upon-Tyne.

To be DELIVERED, *unless* APPEAL *be duly entered.*

TUESDAY, *July* 17, 1860.

BACH, HENRY, Hosier, Sheffield. June 30, 1st class.—BELL, JOSEPH, Shipwright & Boat Builder, Liverpool. July 6, 2nd class.—CROOKS, GEORGE, Grocer, Leeds. 3rd class, subject to a suspension for 6 months from the 1st of June.—GRINDY, WILLIAM, jun., Cattle Salesman, Longnor Edge, Longnor, Staffordshire. July 12, 2nd class.—MELLING, JAMES, & ROBERT CARR, Glass Manufacturers, Attercliffe-cum-Darnall, Yorkshire. June 2, 2nd class.—RICHMOND, JOSEPH, Cornfactor, Bradway, Norton, Derbyshire. 3rd class, subject to a suspension of 12 months from September 22.

FRIDAY, *July* 20, 1860.

BEALE, JOHN SAMUEL, Surgeon & Apothecary, 17, Paddington-green, Paddington, Middlesex. July 14, 2nd class.—MILLER, FREDERICK, Lead & Glass Merchant, 11, Poland-street, Oxford-street, Middlesex. July 14, 2nd class.—PARNELL, JOHN, Linen Draper, Hosier, & Haberdasher, 211, Oxford-street, Middlesex. July 14, 2nd class.—SPENCER, JAMES SMITH, Wine Merchant, 46, Great Russell-street, Bloomsbury, Middlesex. July 10, 1st class.

Scotch Sequestrations.

TUESDAY, *July* 17, 1860.

MILLER, WILLIAM, Farmer, Yonderfield, West Kilbride. July 24, at 1; Black Bull Hotel, Kilmarnock. *Seq.* July 11.

FRIDAY, *July* 20, 1860.

CROFT, HENRY DOBSON, Grocer, Merchant, & Farmer, lately residing at Ince-in-Mackerfield, near Wigan, Lancaster, and presently residing at 8, Wilson's-park, Portobello, Edinburgh. July 27, at 3; Dowells & Lyon's Rooms, 18, George-street, Edinburgh. *Seq.* July 19.

KEIR, JAMES, Miller, Blaikie Mill, near Brechin. July 26, at 12; County and Commercial Hotel, Forfar. *Seq.* July 17.

We cannot notice any communication unless accompanied by the name and address of the writer.

*** *Any error or delay occurring in the transmission of this Journal should be immediately communicated to the Publisher.*

THE SOLICITORS' JOURNAL.

LONDON, JULY 28, 1860.

CURRENT TOPICS.

We have received several communications expressing approbation of the course which this Journal has adopted in publishing the letter of Mr. C. E. Lewis, complaining of delays in the Registrars Office, and in defending, as we have done, such a proceeding on his part, notwithstanding the fact that he happens to be a solicitor, and, therefore, an officer of the Court. It is highly gratifying to find that the profession is capable of exhibiting such strong and general interest in the defence of one of its members who has, in the discharge of his duty to the profession and the public, exposed himself to extra-judicial, but as our readers appear to agree with us in considering, wholly undeserved censure. We appeal, however, to the good sense and good taste of those of our correspondents who desire to maintain the controversy, whether, under all the circumstances, it had not better now drop. It would, no doubt, have been a dereliction of duty on the part of this Journal to have passed over in silence a matter involving such important questions relative to the social status and rights of solicitors as those which were concerned in the quasi-judicial decision in the matter of Mr. C. E. Lewis's letter. We have said, however, all that we think need be said upon the subject, and we shall only add that during the past week we have received numerous communications from respectable and intelligent practitioners, and their managing Chancery clerks, which are strongly in corroboration of what Mr. C. E. Lewis stated in his now memorable letter, and asking for publication in these columns by way of additional evidence, that Mr. C. E. Lewis was justified in complaining of delay in the Registrars Office. We trust that our correspondents will allow us to state in this general manner the purport of their letters, and will forgive us for not publishing them at length.

The Master of the Rolls and the Vice-Chancellor Sir J. Stuart, have risen for the Long Vacation, having disposed of the greater portion, if not the whole, of the business set down before them previously to, and since, last Trinity Term. It is not expected that the Lord Chancellor will rise before this day week, and, from the nature and amount of the business before the Lords Justices, it is improbable that their lordships will be able to conclude their sittings before the 4th of August. Vice-Chancellor Kindersley, it is believed, will rise as soon as he has disposed of the matters now remaining in his paper.

CONCENTRATION OF THE COURTS AND OFFICES.

Now that the Report of the Commissioners on the Concentration of the Courts is attracting general attention and approval, it will not be unseasonable to recall to mind the long and systematic series of efforts which were found necessary to impress this measure upon public consideration, and to bring it to its present advanced stage of maturity. The Incorporated Law Society took the first step nearly a quarter of a century ago, and have since maintained a leading part in promoting this important object. A summary statement of the exertions organized by that society, with the auxiliary efforts made from time to time by other parties, will, we hope, prove both interesting and instructive.

We feel that it is only an act of justice thus to record the efforts of the Incorporated Law Society so perseveringly, consistently, and disinterestedly maintained in promoting the present measure. The general plan for a concentration of the courts, originally suggested by that society, and now at length, with some very slight modifications, approved and recommended by the commissioners, may well bear comparison with the limited plans advanced by Lincoln's-inn and Doctors'-commons for permanently localising within their own precincts, the courts in which they were peculiarly interested. The Incorporated Law Society has no local or private interests to serve. Its members have a general and public character, which ensures the advocacy of such measures only as coincide with the interests of the public. For this reason, the commissioners appear to have placed a high degree of confidence in their judgment. A passage in the recent report is so explicit on this point, and so exactly represents the opinion of the body of solicitors, as to justify our quoting it at length.

> It must be remembered that the very same body of persons who, as solicitors, conduct the business of the suitors in Chancery, represent as attorneys, the suitors at law, as well as in the Courts of Divorce and Probate and the High Court of Admiralty. Whatever, therefore, clogs their proceedings in the one character, indirectly affects those for whom they are, at the same time, acting in the other. We have examined several of the most eminent members of this body, and they have expressed their unanimous opinion, that as the existing separation and dispersion of the various courts and offices are the prolific sources of delay and expense, so their concentration in a central situation, and in close proximity to the Inns of Court, will greatly facilitate the transaction of business in all the Courts, and will thus promote efficiency, economy, and despatch in the general administration of justice.

We must refer our readers elsewhere in our columns for the contents of the report; and we propose to avail ourselves of other opportunities to offer some comments upon its merits. Those who read the report will be struck with the fullness and accuracy of the information with which the commissioners have been supplied on all matters bearing upon the subject, but more particularly as to the various funds pertaining to the Court of Chancery from which the available means are to be sought. The state of these funds was involved in much disguise and misconception; and it must have required a great effort of patient and intelligent investigation to exhibit them in the clear and lucid statement presented in the report. The credit of thus supplying the commission with materials for their report is due in a great measure to the Incorporated Law Society, and to certain individual members of that body, amongst whom the names of Mr. John Young, (President, 1858-59,) and of Mr. Henry Lake, deserve more particularly to be mentioned. Both these gentlemen, from the first origination of the scheme, have spared no pains to promote its success, and in the most important matter of the funds have been the chief instruments in clearing up all difficulties, and in demonstrating that there exists means which are practically and justly available for carrying out so desirable a project.

The first movement in favour of a concentration of the courts was made by the Council of the Incorporated Law Society on the 8th of April, 1836, when petitions were presented to both Houses of Parliament, setting forth the inconvenient situation of the courts at Westminster to practitioners, suitors, jurymen and witnesses—being placed in a remote part of the metropolis, and at a distance from the other courts and offices, and from the residences of persons having occasion to resort thereto—describing also their ill construction and insufficiency for the accommodation of the judges, the officers, and practitioners; and submitting that the

destruction by fire of both Houses of Parliament afforded an opportunity of appropriating the existing courts to parliamentary purposes; and recommending the garden of Lincoln's-inn-fields or the Rolls garden and estates as eligible sites for the new courts. The Council having ascertained, on a conference with some of the judges and leading members of the Bar, that difficulties were likely to arise which would prevent at that time the removal of the courts to the site proposed, no further efforts were then made.

In the early part of the year 1840, the proposed removal of the courts again engaged the attention of the Council, and several meetings were held on the subject. At the suggestion of the late Mr. Vizard, a general meeting of the Society and other members of the profession was held in the Society's Hall on the 8th May, in that year, when resolutions were passed strongly recommending the measure, and the adoption of active proceedings to carry it into effect. Accordingly, petitions were presented under the seal of the Society to both Houses of Parliament, and another petition was also prepared by the Society, and presented with the signatures of 1,500 solicitors practising in the metropolis. At the suggestion of the Council, petitions were also presented from several of the provincial law societies, and plans of the proposed building were prepared and submitted to the judges and other authorities.

These efforts succeeded in arousing the attention of the Legislature. On the motion of Sir Thomas Wilde, Solicitor-General, in April, 1841, a select committee was appointed "to consider the expediency of erecting a building in the neighbourhood of the inns of court, for the sittings of the courts of law and equity, in lieu of the present courts adjoining to Westminster Hall, with the view to the more speedy, convenient, and effective administration of justice." The select committee held several meetings during that session, which were attended by a committee of the Society, when the Lord Chancellor, the Master of the Rolls, and the Vice-Chancellor (all the then Equity judges), two of the common law chiefs, Lord Denman and Lord Abinger, Mr. Erle, the late Mr. Dowdeswell, and several counsel of the different courts, solicitors residing in various parts of the metropolis, the masters, registrars, and other officers of the courts, and the architect of the Houses of Parliament, were examined. The select committee was revived in the ensuing session, 1842; and Vice-Chancellor Wigram and Mr. Martin (now Mr. Baron Martin) gave evidence in favour of the plan. The evidence taken before both committees and presented to the Houses, was ordered to be printed on the 22nd July, 1842. At this time it was proposed that the site of the new courts should be in Lincoln's-inn-fields; but strong objections were afterwards justly raised against the appropriation of those large gardens for that purpose.

In February, 1843, a special general meeting of the Society was held, to receive a report of the proceedings relative to the removal of the courts from Westminster, and to consider what further steps should be taken thereon. The meeting, which was numerously attended, resolved that the evidence taken before the select committee fully supported the views of the general meeting of the profession in May, 1840; and that the necessity for the removal of the courts from Westminster, which was before generally acknowledged, had been greatly increased by the appointment of two additional equity judges; and it was directed that petitions under the seal of the Society should be presented to both Houses of Parliament. The petitions set forth the principal points of the evidence taken before the select committee, and were presented by the Lord Chancellor and the Attorney-General.

At the annual general meeting in August, 1844, the Council reported that they had kept in view the object which the Society had for several years endeavoured to obtain, by the removal of the courts, but had not succeeded in making further progress.

On the 24th April, 1845, another petition was presented to both Houses of Parliament, stating the continued inconvenience of the courts at Westminster, the great increase in the business of the courts, and the necessity of providing the requisite accommodation for its despatch, and for the Vice Chancellors who had been appointed. This produced a notice of motion in the House of Commons to revive the select committee; and on the 28th July in that year a select committee was reappointed on the motion of the late Mr. C. Buller. The architect of the Houses of Parliament, with surveyors and other witnesses, were examined; and the plan of a new site, situate between Carey-street on the north and the Strand on the south, was then, for the first time suggested by the Society, as it was found impossible to procure an adequate site adjoining Westminster Hall. This evidence was ordered to be printed on the 1st August, 1845. In the next Session of Parliament a further petition was presented to the House of Commons, referring to the evidence given before both committees and praying for the adoption of measures to meet the evils complained of; and although no decisive declaration of opinion was elicited from the Legislature or the Government, yet considerable progress was made in public opinion on the subject.

In the year 1848, as a part of this long projected measure, the Council had under their consideration a partial abatement of the evil, by holding the sittings in Chancery in Lincoln's-inn Hall; and they submitted to the Lord Chancellor the expediency of such place of sitting, not only during the prorogation of Parliament, but throughout the year. This suggestion was afterwards adopted, and effected a temporary alleviation of much of the inconvenience that had been felt. In the year 1852, the Society renewed its exertions in promotion of the principal object. Several meetings of the Council took place, and an elaborate petition to the House of Commons was prepared, in which, as the case seemed sufficiently established without the re-appointment of a committee, they suggested an address to the Queen for the removal of the courts. A deputation attended Lord Robert Grosvenor, then the member for Middlesex, and his lordship agreed to present the petition, which was accordingly done at the commencement of the session, 1853. Besides the provision for new courts, it was suggested that accommodation should also be provided for the whole of the offices, both of the chancery and common law courts, for facilitating the transaction of business, and uniting both courts and offices under one roof.

In 1854 a deputation from the Society attended Lord Aberdeen, then Prime Minister, and also Sir William Molesworth, the Chief Commissioner; and communications were had with the Chancellor of the Exchequer and members of both Houses. It was also deemed expedient to communicate to the Lord Mayor the proposed plans, in order to obtain the support of the city of London. The City Improvement Committee, according to their request, were waited upon; and the plan and estimates laid before them received favourable consideration.

In the year 1855, the Council having ascertained from the returns to Parliament the state of the funds of the Court of Chancery, addressed a letter to the Chief Commissioner of Public Works, showing the means afforded for the building of the new courts, and again urging the consideration of the subject by the Government. In 1856 a further application was made to Sir B. Hall, then the Chief Commissioner of Public Works, and a deputation attended him, when he requested that a communication should be made to the Government by the judges, or the Attorney-General,

and a further deputation was accordingly appointed. The Council prepared and printed a statement of the situation of the several courts and offices scattered in different parts of the law district, which was submitted to the First Commissioner of Public Works, and to several members of Parliament.

In May, 1857, the then Attorney-General, Sir R. Bethell, who has always been an earnest advocate of the scheme, and from whom it must still look for its main support in Parliament, requested the Council to furnish him with the plans and statements relating to the proposed new courts and offices. The Council were then informed that the subject was under the consideration of the Government, and that the Prime Minister and Chancellor of the Exchequer were favourably disposed to the measure.

On the change of administration in 1858, a deputation attended the Lord Chancellor Chelmsford, and pointed out to his lordship the several grounds in support of the proposed concentration of the courts and offices, and the means of carrying it into effect. His lordship thought the plan very desirable, and promised to consider the subject and communicate with the Prime Minister, the Chancellor of the Exchequer, and the Home Secretary. Subsequently, however, in the same year, he gave his adhesion and support in Parliament to the plan then advanced by the benchers of Lincoln's-inn, for erecting new courts of equity within their own limits. According to this plan, the sum of £100,000 was to be advanced to the Inn out of a fund in the Court of Chancery, which had been pointed out by the Incorporated Law Society as available, on which the Inn was to pay interest not exceeding £4,000 per annum. A Bill was brought into the House of Lords by Lord Chelmsford, to authorise the advance of this money; but the Incorporated Law Society strenuously opposed the plan, as being calculated to prevent for ever any complete scheme of concentration, and having petitioned against it, the Bill was dropped. This Bill, however, though totally opposed in principle to the general scheme, agreed with it so far, that it admitted the urgent necessity for new courts, and proposed to appropriate the fund which had been already indicated by the Incorporated Law Society.

In the year 1858, a pamphlet, prepared by Mr. Henry Lake, who interested himself zealously in the cause, was published by the Incorporated Law Society, and had a great influence in diffusing correct information on the subject. Its object was to set forth fully the arguments in support of the Society's scheme, and the means of carrying it into effect, and particularly to explain the origin of the funds proposed to be applied, as well as to show that they did not in any sense belong to suitors. This pamphlet was submitted to the Lord Chancellor, the Chief Commissioner, the benchers of Lincoln's-inn, members of Parliament, and other parties, and was widely circulated. In the latter part of the same year, a letter was received from the Chief Commissioner, stating that the Government were not indisposed to agree with the Council in the importance they attached to the concentration of the courts in the neighbourhood of the Inns of Court; but that they were informed that the fund would not afford an adequate surplus to defray the expense, and doubted if its appropriation were unobjectionable. To this a very full answer was returned by the President, with a view to remove the doubts entertained by the Government. On the 7th February, another petition was presented to the House of Commons under the seal of the Society, praying the House to take into consideration the evils and inconveniences arising from the dispersed state of the courts of law and equity, and the offices connected therewith.

This was followed by the recent Royal Commission issued on the 21st April, 1859, "to inquire into the expediency of bringing into one place or neighbourhood all the superior courts of law and equity, including the Probate, Divorce, and Admiralty Courts, and the offices belonging thereto, and into the means for providing the site, and erecting suitable buildings for the purpose." The President of the Society was appointed one of the commissioners. Sir J. Coleridge represented the courts of law; the Vice-Chancellor Wood, the courts of equity; Dr. Phillimore, the courts of Doctors'-commons; Sir G. C. Lewis, Finance; Mr. Young, the body of solicitors; Lord Wynford was added as an independent member, but he did not attend after the first few meetings, and did not sign the report. On the issuing of this commission the Incorporated Law Society appointed a committee of their body to assist in collecting and bringing forward the requisite evidence to be submitted to the commissioners, and a large mass of testimony was accordingly brought forward, first, on the necessity of concentration; secondly, in support of the proposed site; thirdly, on the propriety and sufficiency of the surplus funds in the Court of Chancery and the common law courts to defray the expense. On the 3rd of July, 1860, the commissioners made their report, which accords on all points with the recommendations so long advocated by the Society, and which has been given at full length to our readers, the conclusion being contained in the present number.

At present we can only add that we shall take an early opportunity of reverting to the subject.

THE LANDS CLAUSES CONSOLIDATION ACT.

Having considered somewhat briefly the state of the practice as regards the persons to be served and appear on petitions presented under the 80th section of this Act, it remains for us shortly to examine the objects for which such petitions may be presented, and the various circumstances which may exonerate the company from completely fulfilling the duty intended by the Legislature to be cast upon them, namely, of reinstating the parties *quam proxime* in their old position at *their* expense. And here we shall find the views taken by the Court at different times as various, and the cases in which these views are reported at least as hard to reconcile, as those which relate to the former branch of our subject. For instance, as regards the question whether, when there has been a *bonâ fide* attempt to obtain a reinvestment which has failed, *quâcunque causâ*, the company are liable for costs to any and what extent, we find Sir John Romilly, M.R., holding, *In Ex parte Coply* (22 Jur. 297), that such costs were not payable by the company and must be borne by the petitioner; and Vice-Chancellor Kindersley, *In Re Hardy's estate* (2 Eq. 634) where the reinvestment had been disapproved of in chambers, going so far as to order the costs of the company to be paid out of the fund, although Vice-Chancellor Stuart, *In Re Woolley's estate* (17 Jur. 850; 1 W. R. 407; 1 Eq. 160), ordered the company to pay these costs. From the report of this case in 1 Eq. 160, it would, however, appear that his Honor had in the first directed these costs to be paid out of the fund, and that a difficulty having been found in drawing up that order, a further order was made, directing the company to pay them, which does not appear to have been contested.

Or, again, it has frequently happened that pending the contract the vendor has died either intestate leaving an infant heir, or having devised his estate to some person under disability. One of the earliest of these cases is *The Midland Counties Railway Company* v. *Wescomb* (2 Ry. & Ca. Ca. 211. s.c. 11 Sim. 57). In this case the legal estate in the land which the company had taken had descended to infants, and the suit was instituted to obtain a conveyance, and the Vice-Chancellor of England directed the costs to be paid out of

the purchase-money. His Honor, in giving judgment, observed, "It is quite clear that Mr. Wescomb was aware that the railway company would take the land, and he ought to have taken measures to prevent the legal estate in the lands, which from the time of the contract, in equity belonged to the company, from descending to infants. If he had merely taken the precaution of devising the estate to some person in trust to convey it to the company, there would have been no necessity for this suit. This he should have done, as soon as he knew that the land would be taken. The company must pay the expense of the actual conveyance, but their costs of suit must be paid out of the purchase-money; for Mr. Wescomb has himself caused the necessity for this suit." In this case, however, his Honor seems to have dwelt too much on the analogy of ordinary suits for specific performance, and to have relied on the authority of *Prytharch* v. *Havard* (6 Sim. 9) further than it would bear. And even in similar cases of specific performance, judges have striven to distinguish it, so as to leave each side to bear their own costs; see *Hanson* v. *Lake* (2 G. & C. C. C. 328); *Hinder* v. *Streeter* (16 Jur. 650); and *Armitage* v. *Askham*, *infra*. Be this as it may, this case has been extensively, though by no means invariably, followed in the case of petitions under this Act, to an extent which leaves the parties in the case of accidental or unexpected death, pending the contract, by no means certain of being protected from costs; albeit those costs are necessarily consequent, without default or litigation, on the act of the railway company. Thus, in the case of *Eastern Counties Railway Company* v. *Tuffnell* (3 Ry. & Ca. Ca. 133), Vice-Chancellor Wigram refused to make the company pay the costs of the suit, observing that "it seemed impossible to answer what the Vice-Chancellor of England said in *Midland Counties Railway Company* v. *Wescomb*." On the contrary, in *Re Spooner's estate* (1 K. & J. 220), where the lands in question had, subsequently to the purchase, descended to co-heirs, each of whom presented a separate petition for the payment out of court to him of his share, it was decided by Vice-Chancellor Wood that the company were liable to pay the costs of both petitions, and also of the costs incurred by a reference to chambers as to title, except so much thereof as related to certain affidavits, which the petitioners had filed in answer to adverse claims. But in *Re the South Wales Railway Company* (14 B. 418), where the circumstances were even stronger against the company, as the land had actually descended to an infant trustee before they purchased, Sir John Romilly, M.R., refused to make the company pay the costs of the proceedings under the Trustee Act to obtain a conveyance from the infant heir. And, again, in *Re Nash's estate* (4 W. R. 111), Vice-Chancellor Wood ordered the company (who had taken lands which had been vested in a mortgagee, whose heir-at-law could not be found) to pay the costs of the necessary petition by the vendor, for an order appointing a person to convey; and in the earlier case of *Lake* v. *Eastern Counties Railway Company* (19 L. J. 323), where the contract for sale contained a stipulation that the company were to pay "all costs and expenses of and incidental to the conveyance;" and, after the title had been accepted, but before the conveyance could be executed, the vendor died, leaving an infant heir, the administrator of the vendor filed this bill against the company, to have the contract carried into effect; and the Master of the Rolls held that the company were liable to pay these costs, as being within the provisions of the contract. In *Armitage* v. *Askham* (19 Jur. 227), the facts were somewhat more complicated. No question arose there as to the lands taken by the company, but the vendor of the lands, in the purchase of which it was proposed to reinvest the purchase money, having died after the reinvestment had been ordered, and pending the reference as to title, leaving an infant heir, and a suit having been instituted by the petitioners against the heir for specific performance, and for a conveyance, and a new petition having been presented in the cause and the Act, Vice-Chancellor Wood refused to make any order as to the costs of the suit, saying that they were costs of litigation within the meaning of the Act; but he ordered the company to pay the costs of the petition, on the ground that the order in the first petition was to pay to a man who was dead, and therefore incapable of being acted on.*

The former part of this judgment may, perhaps, appear to stand on the exceptional circumstances of the particular case; and therefore, not to conflict directly with any of the cases cited above; but the reason given for ordering the company to pay the costs of the petition has not met with universal acceptance. The reported decisions upon this point are not less various, or easier to reconcile, than those which we have already had occasion to consider. Thus, in *Re Bryan's Trust*, (7 W. R. 367), where the life interest in the property taken was subject to a mortgage, and an order had been made for investment, and payment of the dividends to the mortgagee "during the life of the mortgagor or till further order," the mortgagee died during the continuance of the life estate, and Vice-Chancellor Kindersley refused to make the company pay the costs of a petition for payment of the dividends to the transferee of the mortgage, observing "that as the time contemplated by the former order had not expired, the mortgagor being still alive, the company ought not to have been brought back into court." Now, surely, in this case the order had become as completely unworkable by the death of the payee as in the case of *Armitage* v. *Askham*, and the same reason for fixing the company with costs as that there given had arisen; nor is it easy to see any ground whatever on which the cases can be distinguished.

A decision founded on principles apparently somewhat similar is that of *Ex parte Hudson*, (2 De G. & Sm. 263), where it was held by Vice-Chancellor Knight Bruce that where an order has been made directing payment of the dividends to a woman who afterwards marries, the company ought not to be served with a petition praying that the dividends may be paid to her husband, and in which the petitioner, who had served the company, was ordered to pay their costs. On the other hand, in *Re Goe's Estate* (3 W. R. 119), Vice-Chancellor Stuart required the company to pay the costs of a second petition for payment of the dividends, rendered necessary by the death of one of two trustees to whom the dividends had been ordered to be paid by name, on the ground that it was as much the fault of the company as of the petitioner that the order had not been taken at first for payment to the trustees for the time being.

A similar conflict of decision will be found in the cases which have arisen on the question, 'What is an application of the purchase money for the expenses of which the company have to pay?' Thus, in the case of *Ex parte the Earl of Hardwicke* (17 L. J. Ch. 422), the Vice Chancellor of England decided that the company are not liable to pay the costs of the application of the purchase money in the discharge of an "incumbrance" affecting the land; and in *Ex parte the Corporation of Sheffield* (21 Bea. 162), Sir J. Romilly, M.R., followed that case, and directed the company to pay the costs merely of "obtaining the fund out of court;" and so in *Barrow* v. *Barrow* (3 W. R. 587), Vice-Chancellor Wood decided that the customary fine payable upon admittance to

* In the late case of *Re De Beauvoir's Trusts*, 20 Jur. 393, where the land taken by the company had been devised to trustees upon certain uses, and, before the reinvestment, the uses were changed, V.C. Kindersley refused to order the company to pay the cost of reinvestment to the new uses, and merely ordered payment of the money out of court; but, upon appeal, this order was reversed by the Lords Justices.

copyholds, did not come under the head of "costs and charges."

On the other hand, in *Dixon* v. *Jackson* (25 L. J. Ch. 588), Vice-Chancellor Kindersley held that the application of the fund for the purpose of enfranchisement of certain copyhold lands belonging to the vendor, was a proper investment in land within the Act, and the company were ordered to pay the costs of the necessary petition; and so in *Ex parte Beddoes* (3 Eq. 137), Vice-Chancellor Stuart ordered the company to pay the costs of laying out the fund in the redemption of land tax of other lands of the petitioner; and in *Ex parte the Vicar of Sawston*, (6 W. R. 492), Vice-Chancellor Kindersley directed that the fine payable on the admission to copyholds which had been purchased with the fund in court, to be paid out of the fund, but said that the fees payable to the steward were properly costs against the company.

And, as if there could be no point connected with this subject too small, or too clear, to provoke dissentient opinions, we find that in *Ex parte the Earl of Harborough* (22 L. T. 115), where the petition prayed that the whole sum in court might be invested without deducting brokerage (the petitioner undertaking to pay the brokerage), and that the company might be ordered to pay the brokerage as well as the costs back to the petitioner, Vice-Chancellor Kindersley said he could not make the order in that form, but that the brokerage must be deducted from the sum in court, and should then be paid by the company to the petitioner along with the other costs: but in *Re Braithwaite's Trust* (1 Sm. & G. app. xv.), Vice-Chancellor Stuart, notwithstanding a remonstrance from the Accountant-General, made the order on a similar petition as prayed.

On the third branch of this question, viz., what are costs occasioned by litigation, the decisions are not so numerous, and are much more consistent with one another. The most accurate general rule would seem to be that, wherever the company, looked upon as a stakeholder, would have been entitled to file a bill of interpleader, any proceedings which would naturally have taken place upon such a bill are to be regarded as "litigation," the costs of which the company are not bound to pay. Thus, in *Re Longworth's Estate* (2 Eq. 776), Vice-Chancellor Wood decided that a claim by the representatives of the tenant for life to have an apportionment of the half year's dividend which accrued due next after his decease was a case of litigation between adverse parties, and that the company were not bound to pay their costs. But the moment the question in litigation is determined, the subsequent costs become payable by the company, just as if there had been no contest; thus, in *Ex parte Gardiner* (3 Ry. & Ca. Ca. 117), where a portion of the purchase money had been left in court to await the issue of such a question, Vice-Chancellor Wigram ordered the company to pay the costs of a petition for payment out of court to the successful claimant.

Amongst the few decisions on litigated points connected with this subject which do not appear to have been questioned, and which do not readily fall under any of the heads we have been considering, may be mentioned the following:—*In Re Taylor* (1 M. & Gor. 210), Lord Cottenham, C., ordered the costs of the reference to the Master as to the propriety of a sale of part of a lunatic's estate to the York and North Midland Railway Company, to be borne by the company. In *Re the Liverpool, &c., Railway* (17 B. 392), where a petition for investment in stock was presented *after* a contract had been entered into for the purchase of land; and a second petition was subsequently presented for the completion of the contract, Sir John Romilly, M. R., held that the proceeding was not vexatious, and ordered the company to pay the costs of both petitions. From *The London & Birmingham Railway Company* v. *The Shropshire Union Railway Company* (23 B. 605), it appears that where two different companies take lands from the same legal owner, and he proposes to reinvest all the monies in *one* purchase, it is not improper in him to present two distinct petitions, although, on their coming on to be heard, the proceedings will be consolidated and the costs divided between the companies.

In *Re John Thorneley's estate* (Mar. 24, 1858, *not reported*), Sir John Romilly, M.R., decided that where the settlement contains two successive life estates, the company are entitled to an order that the dividends be paid to the first tenant for life during his life, "and upon proof of his death to the satisfaction of the Accountant-General, then to [*the next tenant for life*] during his life;" so as to save the expense of a new petition on the death of the first tenant for life; and his Honour has since applied the same rule to petitions under the Trustee Relief Act.

From a general inspection of the cases we have cited, it will appear that this question of costs is very far from being in a really satisfactory state; that it is impossible for any land-owner to feel secure that his land may not be taken from him for the purposes of some railway, without his having the power either to prevent the company from taking his property, or to compel them to indemnify him against the consequent costs. In other words, the decisions by no means bear out the dictum of Lord Langdale, in one of the cases cited above, that "It is not unreasonable to make a company that is clothed by Act of Parliament with imperial power to take away people's property, though it be said to be for the public good, pay all the costs incidental thereto."

Perhaps, of all the decisions on this section, that one which both in word and action carries out this principle most fairly, and which seems to contain the germ of the best class of precedents, is *Re Jones's estate* (6 W. R. 614). In that case, the Corporation of the Trinity House had taken certain settled lands, and Vice-Chancellor Stuart decided that the fee paid to the owner's private counsel for advising on the title of the lands proposed to be purchased as a reinvestment, were payable by the corporation. "Where lands," said his Honor, "are taken compulsorily by a public body, and there is any question as to costs relating to the reinvestment of the purchase-money of such lands, the purchaser should have the benefit of the doubt; for those costs were occasioned not by his act, but by that of the public body."

With this remark, we conclude our observations, earnestly desiring that in the course of future adjudication on this question, it may be found that the principle thereby laid down is kept more steadily in view, than, as appears to us, has been the case hitherto.

CRIMINAL PROSECUTIONS IN ENGLAND:—PLANS OF REFORM.

When we consider that there is no recognised system for the prosecution of offenders established in England, and that the means now adopted have been proved to be inadequate alike to the protection of innocence and the detection of crime, we may well be surprised that this notorious defect in the administration of the law has not been attended with consequences still more serious than those which have been experienced. We would observe, however, with reference to this point that the public at large have no practical acquaintance with the evils of the system. Indeed, we may say the same with regard to the bulk of the profession. It is only a class, and a comparatively small class of the latter, who devote themselves to the practice of the criminal law, and they are exclusively aware of its defects. It is but occasionally that the attention of the public or of Parliament is called to the subject; and a solitary case in which justice may have miscarried, or an innocent person has been subjected to a malicious prosecution, is speedily forgotten amid the more exciting topics of the

day. There is yet another, and a still more powerful cause why nothing has been done to cure the evil. It is the great difficulty of finding an efficient remedy. No one, we believe, either in or out of the profession, will maintain that the present system ought to be preserved intact. All the witnesses who appeared before Mr. Phillimore's committee—and there were thirty-nine, every one without exception, practically acquainted with the subject—agreed that some change was necessary. Such too was the unanimous opinion of the committee. The only question was, and still is, as to the nature of the remedy, and it is that which we now propose to consider.

The great defect in our present system is the want of some official person to whom information of the commission of a crime may be immediately given, and whose duty, upon receiving such information, would be to proceed forthwith to make inquiries and collect evidence upon the spot. We have seen that this duty is performed, and efficiently performed, by the Procurator Fiscal in Scotland, who is always a solicitor. In France the *procureur du roi*, and in the State of New York, the district attorney, has a similar task assigned to him. Were such an officer appointed in England, it would also be his duty to attend before the magistrate, at least in important cases where his assistance was required, and generally to advise upon the conduct of the prosecution until the trial. We need hardly add that these duties could only be effectually performed by an attorney. Upon this point there appeared to be no difference of opinion among the members of Mr. Phillimore's committee. We hold, indeed, that the appointment of such Crown attornies, or whatever other name may be assigned to them, is essential to the establishment of any efficient system. The chief difficulty in all the proposed plans has been as to the appointment of counsel. Mr. Phillimore's plan was to appoint Crown counsel to conduct all the cases as well at sessions as assizes; but whoever seriously considers this scheme, will find it to be wholly impracticable. In Scotland, where the number of criminal trials is small, even with reference to her small population, it is easy for the Lord Advocate and his four deputes to overtake them all. We must remember, moreover, that in Scotland the Crown counsel only appear at assizes. At the Sheriff Courts, which correspond, so far as regards their criminal jurisdiction, to the sessions in England, the prosecutions are conducted by the Procurator Fiscal. But how many deputes would the Attorney-General of England require, if all the trials, both at sessions and assizes, were conducted by them? There are sessions even out of the metropolitan districts where sometimes upwards of two hundred prisoners are tried. Would one or even two or three counsel be equal to the task of conducting all these prosecutions? And even if they were, would it be a public benefit that the attendance of the Bar at sessions should be restricted to Government officials, with the addition probably of one or two defending counsel? Laying aside all considerations as to the injurious effects of such an arrangement upon the Bar, and looking only to the great amount of important business transacted at sessions, and the interest which the public have in its careful and efficient administration, we cannot think that this plan, even if practicable, would tend to promote the ends of justice.

Let us now examine the scheme which a large majority of Mr. Phillimore's committee finally recommended for the adoption of the country. They proposed in the first place that a certain number of Crown attornies should be appointed, and suggested that a district should be assigned to each, to be co-extensive, or as nearly so as practicable, with that of the county courts. It was proposed to give to each Crown attorney a salary of £700 a year, together with an allowance for a clerk, for which remuneration they were to devote the whole of their time to the duties of their office. These duties were to act generally as prosecuting solicitor in all cases, both at sessions and assizes within their respective districts. Besides collecting and arranging the evidence, it was proposed that they should attend before the committing magistrate, when required by him to do so; and finally, that they should prepare the briefs and instruct counsel in every case. As the number of county courts in England and Wales is exactly sixty, the expense of this portion of the plan, allowing £100 a year to each of the Crown attornies for a clerk, would amount to something less than £50,000 a year.

In addition to these local agents, it was proposed that an "advising counsel" should be appointed for each circuit, with whom all the Crown attornies within it should communicate in case of need. But although the duties of such counsel were to be restricted generally to advising, it was proposed that he should conduct in person all cases of importance, or in other words, all cases in which more than one counsel was employed. These "advising counsel," who were to be appointed by the Attorney-General, were to receive a salary of £500 a-year, both for their services in advising and for conducting cases in court.

Now, with regard to the first portion of the scheme we think that no substantial objection can be made. We believe that for the amount of proposed remuneration, a sufficient number of attornies of standing and character might be obtained to act as district public prosecutors throughout the kingdom. The appointment of such as we have already stated, we should consider indispensable to any well framed scheme. But to the suggested appointment of advising counsel we think that strong objections may be made; indeed, we strongly suspect that this portion of the plan was, and is, the main obstacle to its adoption. In the first place, to appoint counsel merely for the purpose of advising in criminal cases would be an anomaly in practice. Next, if they were appointed one for each circuit, as proposed, the counsel for the northern circuit would have, at least, ten times as much work to do as the counsel for the Norfolk or the Welsh circuits. In the third and last place, there seems to be no good reason why any such counsel should be appointed at all. It is different in Scotland and in Ireland, where all the cases are conducted from first to last by Crown counsel; but in England the prosecuting solicitor would require, supposing the plan in question adopted, to go first to his advising counsel, and after that to the counsel whom he selected to conduct the case in court. Why should he not go to the latter at once, in case he wants assistance? In a word, we consider that the appointment of these "advising counsel" would only entail a needless expense upon the country.

We would, therefore, adopt the first portion of the scheme of Mr. Phillimore's committee, and reject the second. There is, indeed, only one objection that we have ever heard urged against the appointment of district public prosecutors, and that is, that the whole patronage of the Bar at sessions, and of the criminal side at assizes, would be thrown into their hands. But this objection is more serious in appearance than in reality. The best means of testing it is to look to Liverpool, Manchester, and Leeds, in each of which places the prosecutions, both at sessions and assizes, have for many years been conducted by one solicitor expressly appointed for the purpose. The latter has the sole power of distributing the briefs, and from minute inquiries that we have made upon the subject, we have arrived at the conclusion that, upon the whole, although complaints may be occasionally made, the distribution is fairly made. Looking, then, to the question in all its bearings, we can suggest nothing better in the way of a remedy for the evils of the existing system, than a simple extension throughout the kingdom of the system which has been adopted with decided success in those great towns. In all of them the criminal business is not only done better, but cheaper,

than it is elsewhere, and there is no reason to suppose that an extension of the system would be attended with different results.

There are still some other points connected with the working of the criminal law to which we wish to call the attention of our readers; but these we must reserve for a future occasion.

CONCENTRATION OF THE SUPERIOR COURTS AND OFFICES.

REPORT.

(Concluded from page 741.)

88. In 1794, another Act of the Irish Parliament was passed (the 34th Geo. 3, c. 6), intituled "An Act for enabling the Lord High Chancellor of Ireland and the Court of Exchequer respectively to make orders on the Governor and Company of the Bank of Ireland, for payment out of the general fund of moneys belonging to the suitors of the Courts of Chancery and Exchequer, of the further sum therein mentioned, towards building the principal courts of justice at Dublin, and law offices, and for declaring, &c." This Act recited the previous Act of 1790, and that a further sum of £13,500 might be required to complete the building of the courts and offices therein mentioned; and it accordingly proceeded to direct that, "out of the said general fund of the moneys of the said High Court of Chancery or Court of Exchequer" deposited in the Bank of Ireland, there should from time to time be paid to the Lord Chancellor and chief judges such further sum, not exceeding £13,500, as might be required towards building such courts and offices. The second section of this Act in like manner provided, that if the general funds belonging to the suitors should at any time be reduced to a sum not greater than the amount of the sums mentioned in the former Act, and the said sum of £13,500, then the Governor and Company of the Bank of Ireland should from time to time be reimbursed, "from and out of his Majesty's Treasury," so much of the said sums as should appear to the Lords of the Treasury to be necessary, in order to provide a fund sufficient to answer the demands of the suitors.

89. In 1832, an Act of the imperial Parliament was passed (the 2nd & 3rd William 4, c. 32), intituled "An Act for the erection of a Nisi Prius Court House in Dublin," by which, after reciting the two last-mentioned Acts of the Irish Parliament, and that the despatch of business in the courts therein mentioned would be much facilitated by providing an additional court house, in which causes might be tried at Nisi Prius during term, so as not to interrupt the business of any of the other courts, and in which the Court of Exchequer Chamber might also hold its meetings without interruption to the business of the Rolls Court, it was enacted that any further sum, not exceeding £4,000 might be advanced "out of the general fund of the monies of the suitors of the Court of Chancery and Court of Exchequer" for building the said court house, and also for improving the accommodations of the present principal courts of justice in Dublin. The third section of this Act contained a similar provision, that if the general fund of the suitors should at any time be reduced to a sum not greater than the amount of the sums mentioned in the former Acts, and the sum of £4,000 above mentioned, then the Bank of Ireland should be reimbursed, out of the Consolidated Fund of the United Kingdom, so much of the said several sums as should appear to the Lords of the Treasury to be necessary, in order to provide a fund sufficient to answer the demands of the suitors.

90. In 1834, another Act was passed (the 4th & 5th William 4, c. 68), intituled "An Act to authorize an advance out of the general fund of monies belonging to the suitors of the Courts of Chancery and Exchequer in Ireland, towards the purchasing of ground, and building thereon offices necessary to the courts of justice in Dublin." After reciting the three last-mentioned Acts, it states that it was necessary to insulate the courts of justice in Dublin, and the Public Record Offices adjoining thereto, for the purpose of protecting the various records and public documents there deposited from the hazards of fire and embezzlement, to which they were continually exposed from the surrounding buildings, and that a further sum of £50,000 was estimated to be required for the purpose of purchasing the necessary ground, and of erecting additional offices connected with the said courts, and otherwise increasing the accommodation of such offices. It was accordingly enacted that the Bank of Ireland might advance to the Commissioners of Public Works, out of the suitors' fund of the Court of Chancery or the Court of Exchequer, such sums, not exceeding £50,000, as they should require for the purposes before stated. The 2d section of the Act contained a similar provision to those contained in the previous Acts, for reimbursing to the Bank, "from and out of his Majesty's Treasury," so much of the various sums mentioned in such former Acts, and of the said sum of £50,000, as the Lords of the Treasury should consider necessary to provide a fund sufficient to answer the demands of the suitors.

91. Lastly, by an Act passed in the year 1848 (the 7th & 12th Vict. c. 77), intituled "An Act to authorise the application of part of the unclaimed money in the Court for the Relief of Insolvent Debtors in enlarging the Court-house of the said Court," after reciting that a sum of £67,000 or thereabouts remained unclaimed in the said Court, and which was then invested in Exchequer bills, and that it had become necessary to enlarge the Court-house in Portugal-street, Lincoln's-inn-fields, and for that purpose to purchase and alter an adjoining messuage and buildings, and that it was expedient to apply part of such unclaimed moneys in defraying the expenses which would be thereby incurred, it was enacted that a sum not exceeding in the whole £21,300 should be raised by sale of a sufficient part of such Exchequer bills, and paid to the credit of the Commissioners of Woods, Forests, and Public Works, to be applied by them in paying the expenses of enlarging and fitting the Court-house. The 4th section of the said Act provided, that in case the money remaining in the Insolvent Debtors Court should be insufficient to meet the claims thereon, the deficiency should be made good out of the Consolidated Fund to an extent not exceeding in the whole the amount which should have been raised and paid to the Commissioners of Public Works for the purposes before mentioned.

92. These precedents appear to us to be conclusive, not only on the question immediately before us as to the propriety of a guarantee by the State to the suitors, but on the larger question which we have above discussed. We have already shown that common law suitors have been repeatedly taxed for the exclusive benefit of suitors in Chancery. The precedents last cited show that funds belonging to suitors in Chancery have been repeatedly applied by Parliament for the exclusive benefit of suitors at law. We think no reasonable doubt can remain as to the moral right to appropriate the profits of a mixed fund not for the exclusive benefit of either one class or the other, but for the common benefit of both.

Next, as regards the income:—

93. We have shown that the income arising from each of the funds A. and B. is charged with various annual payments of large amount, for salaries, pensions, compensation allowances and other miscellaneous purposes, the surplus income, after making all such payments being carried over to "The Suitors Fee Fund Account" (fund C.). We have also shown that, for the last year, ending November, 1859, the aggregate income of all the funds A., B., C., and D., amounted to £223,764 13s. 3d. while the aggregate expenditure was £220,721 13s. 8d., leaving a surplus of only £3,042 17s. 7d. It is manifest, therefore, that if the capital of the two funds, B. and D., be appropriated, as proposed, the income arising therefrom, amounting to £45,000 per annum, will be withdrawn from the common fund C., and instead of a surplus there will be a large deficiency. It is true that, out of the whole expenditure above-mentioned, no less a sum than £74,396 6s. 3d. consists of annual payments for compensations to the holders of abolished offices; and it is estimated that these payments are diminishing at the rate of more than £2,000 per annum, by the falling in of existing lives; so that, in a very few years, the deficit will be thereby made good, and the income fund (C.) will right itself. We do not here refer to salaries and pensions, which, as they drop, will, in the natural course of things, be replaced by others, and the total amount of which may even be increased, as the increasing business of the Court may from time to time render necessary an augmentation of its personal staff. But we are speaking exclusively of terminable annual charges, which in the course of a few years will entirely cease. In the meantime however, and until the fruits of this process of reduction have been fully realised, means must be provided to meet the charges to which the fund is now subject, and to prevent the machinery of justice from being brought to a stand.

94. We are of opinion that this temporary deficiency should be made good by the public, by means of an annual payment from the Consolidated Fund. It appears to us, that the providing suitable courts and offices for the due and convenient

administration of justice is an object of supreme national importance, and involving the weightiest national obligations; that it is, in fact, one of the primary and paramount duties of the state. If its fulfilment involved even a large and permanent addition to the public burthens, we humbly conceive that the state could not, with propriety, shrink from the obligation. But we are happy to say that the charge which we recommend to be imposed would not only be extremely moderate in amount, but may also be temporary in duration, as will appear by the following statement.

95. Assuming that the scheme which we have recommended should be adopted and carried into effect, and that the cost of acquiring the necessary site and erecting thereon the proposed buildings should entirely absorb (as we believe it would) the capital of funds B. and D., there would, as we have before stated, be an eventual loss to fund C. of the whole income now derived from funds B. and D., amounting to £45,000 per annum. From this, however, must be deducted the present surplus income of fund C., of £3,000, and also the rents, amounting to £2,000 per annum, now paid out of fund C. for various offices used by the Court of Chancery, but which, on the completion of the proposed new buildings, would be no longer required. These two sums, amounting together to £5,000, being deducted, the net deficiency to be made good out of the Consolidated Fund would thus be reduced to £40,000 per annum. The real charge upon the public, however, would fall very far short of this sum.

96. We have stated that the net surplus of the fees paid over to the Treasury by the several masters of the superior courts of common law have amounted, on the average of the last six years, to upwards of £14,000 per annum. But out of the gross fees received by the masters, rents are now paid by them to the amount of more than £1,600 per annum, for various buildings at present occupied by the officers of the common law courts, which, when the new buildings are completed, will cease to be required. The surplus will therefore be increased by the sum thus saved, and will then amount to £16,000 per annum. Again, the surplus of the fees of the Court of Probate, now paid over to the Exchequer, are proved to amount to £7,000 and those of the High Court of Admiralty to about £1,200 per annum. These three sums, amounting together to £24,000, must therefore be placed to the credit of the account, and the real contribution to be borne by the public will thus be reduced from £40,000 to £16,000 per annum, as shown by the following statement:—

	£	£
Loss to fund C. by abstraction of the income of funds B. and D.		45,000
Deduct present surplus income	3,000	
„ saving of rents now paid out of fund C.	2,000	
		5,000
Net annual deficiency of fund C. to be made good out of Consolidated Fund		40,000
Consolidated Fund Dr. to the above deficiency		40,000
Cr. by the following; viz.—		
Surplus of Common Law Fees	16,000	
„ Probate Court Fees	7,000	
„ High Court of Admiralty Fees	1,000	
		24,000
Net amount of annual charge to the public		£16,000

97. But even this is not the whole case. We have dealt above with the existing figures, but we are assured by most competent authority, that if sufficient accommodation were provided for the Court of Probate, arrangements for the conduct of the business of that court, which are now retarded only by the want of adequate space, would be at once matured, and by means thereof the surplus fees would be increased, certainly to £14,000, but more probably to £20,000, per annum. Taking the smaller only of these two sums, the net annual charge to the public would thus be reduced from £16,000 to £9,000 per annum.

98. We recommend, therefore, that there shall be annually paid to the Accountant-General of the Court of Chancery, out of the Consolidated Fund, such sum, not exceeding £40,000, as shall be equal to the dividends on so much of the capital of Funds B. and D., as shall be from time to time withdrawn for the purposes of the proposed scheme. It will be remembered that the money will be required, not all at once, but gradually only, as the purchases of land and the erection of buildings proceed, and that until stock is actually sold for those purposes the dividends on the unsold portion thereof would continue to be received by the Accountant-General, as heretofore. The annual sum so to be paid to him would be applied to the same purposes to which the "Suitors' Fee Fund" (Fund C.) is now applied, and would be accounted for by him accordingly, as he accounts for the income of that and the other funds now under his control.

99. It must be manifest to every one that the buildings at Westminster now used by the superior courts of common law, the Probate and Divorce Courts, and the High Court of Admiralty, cannot long continue to be employed for the purposes of those courts. Not only are they an unsightly excrescence, marring the beauty and disturbing the uniformity of the magnificent structure of which they form a part, but they are wholly inadequate and unsuitable for the transaction of the business for which they are now permitted to be employed. Every one concerned in the administration of justice—the bench, the bar, the attornies, jurymen, witnesses, the public attending the courts,—all concur in condemning them as grossly unfit for the important uses to which they are devoted. If then they are removed,—as sooner or later they must be,—a new site must be found for the courts of law, and new buildings erected thereon at the public expense. This outlay will be saved by the execution of our proposed scheme.

100. Again, the defective state of the Probate Court and its offices, and, in particular, the inadequacy of the existing depository of wills, has been urgently pressed on our notice by most competent witnesses, and one of our own number, from his personal knowledge, corroborates their testimony; the want of accommodation operating, in fact, as a serious impediment to the due working out of many of the objects and purposes of the Act by which the Court was established, and thus tending to defeat its policy. We believe, indeed, that a sum of £70,000 has been actually voted by Parliament for the purchase of a site for new buildings at Doctors'-commons. This outlay will also be saved if our proposed scheme is carried into immediate effect.

101. In order to effect these large savings to the public, to provide proper courts for the due administration of justice, and at the same time to secure the great advantages which we have above pointed out as resulting from the concentration of all the courts and all the offices connected therewith in a central situation, some assistance may well be given from the public resources. The annual payment which we have above recommended would be in the nature of a rent,—and, taking its net amount at £16,000 per annum, a very moderate rent,—paid by the state for the use of buildings dedicated to purposes of the very highest public utility and importance. Whether this rent should be paid only for a limited time, or in perpetuity,—that is to say, whether the charge on the Consolidated Fund should be a temporary or a permanent one,—may fairly admit of question.

102. The advantage of making the charge permanent would be, that the Court of Chancery would thereby be enabled to reduce, and ultimately to extinguish, the fees now paid by the chancery suitors. It is obvious, that if the State takes possession of the funds B. and D., and applies the entire capital thereof towards the purposes of the proposed scheme, the income of those funds will no longer be available, as heretofore, for the reduction of fees. If, however, Parliament should consider that, under the special circumstances of the case, the public may reasonably be called on to assist in reducing the fees of the chancery suitors, by means of a permanent charge on the consolidated fund, the deficit created by the withdrawal of funds B. and D. would then be supplied, and, on the falling in of the existing terminable annuities; the available resources of the Court of Chancery would be exactly what they are at present.

103. But if Parliament should not deem it consistent with the public interests to impose any permanent burden, however moderate in amount, on the finances of the State, then we recommend that the sum to be annually paid over from the consolidated fund to the Accountant-General of the Court of Chancery should be reducible and reduced from year to year, as the existing terminable annuities fall in, until the deficiency caused by the absorption of funds B. and D. shall be thereby made good. It is computed that these annuities will diminish at the rate of above £2,000 per annum, and taking the net annual contribution from the public funds to be £16,000 at the commencement, it will wholly cease in eight years; while, if the anticipated increase in the fees received by the Probate Court should take place, the charge on the public will be extinguished in less than half that period.

104. II. With regard to fund D., which we have referred to as one of the sources properly available in aid of the scheme, little

remains to be said, as most of the arguments by which its appropriation may be justified have been anticipated in our preceding observations. It will be remembered that this fund amounts to a sum of £201,028 2s. 3d. stock, now standing to the credit of an account entitled "Account of monies placed out to provide for the Officers of the High Court of Chancery;" that it has arisen from the surplus of the fees levied on the suitors between the years 1833 and 1852, not required for defraying the expenses of the court; and that the whole income thereof, like the surplus income of funds A. and B., is carried over to, and forms part of, the income of fund C. We are of opinion that if funds B. and E. should prove inadequate to the complete execution of the proposed scheme, fund D. may most properly be applied in aid thereof. But in that case we think that Parliament should guarantee the due and punctual payment of the salaries and compensation allowances to the officers of the court, for the security of which this fund now stands charged. The income of fund C. will, of course, be diminished, *pro tanto*, by the abstraction of the capital of fund D. but provision will have been made for the deficiency thereby caused, by means of the annual sum of £40,000, which we have already recommended as proper to be paid to the Accountant-General, until the falling in of the terminable annual charges has restored the equilibrium of the entire income.

105. III. As to fund E., no observations seem to be required. The sum of £88,254 5s. 1d., arising from the common law fees which have accumulated between the years 1852 and 1859, both inclusive, and of which that fund consists, is wholly free and unappropriated; and it appears to us that there cannot be a more legitimate application thereof, than towards the completion of a scheme from which the suitors at common law will derive the most essential advantage.

106. In the commencement of this last division of our Report we have expressed our opinion that the funds, the nature and amount of which we have now submitted to your Majesty, would be sufficient for carrying into effect the concentration we have recommended. Upon this matter it is, for obvious reasons, very difficult to arrive at an absolute certainty, and we have not thought ourselves justified in incurring the expense of minute and detailed surveys and estimates, which would have been necessary to enable us to speak with certainty, but which would at present have been premature. In the minutes of evidence annexed to this our Report, however, will be found general evidence on the subject, on which we think we may rely with some confidence for the opinion we have ventured to express.

107. From this evidence it appears that the site we have recommended may be acquired for about £675,000, and that an equal sum would probably be required for the erection of the proposed buildings, making together £1,350,000. Adding to this sum £150,000 for contingencies, we have an aggregate amount of £1,500,000, which would be about the produce of the three funds B., D., and E. But as, on the completion of the proposed new courts and offices, large and valuable blocks of building, (which have been acquired and erected out of the profits of the suitors' unemployed cash, under the provisions of the various Acts of Parliament to which we have above referred) and the freehold of which is now vested in the Lord Chancellor or the Accountant-General of the Court of Chancery, would no longer be required for the business of the Court, such buildings and the site thereof might be sold, and the produce of the sale brought in aid of the proposed scheme, if such aid were found to be necessary, or if not, might be carried over to the suitors' fund.

All which we humbly submit to your Majesty.

J. T. COLERIDGE.
W. P. WOOD.
G. C. LEWIS.
R. J. PHILLIMORE.
J. YOUNG.

Dated this 3rd day of July, 1860.

APPENDIX A.

Observations of VICE-CHANCELLOR WOOD, referred to in the Report.

I object to the appropriation of any part of the "Suitors' Fund" or of the "Suitors' Fee Fund" of the Court of Chancery towards the expense of erecting Courts for the transaction of any business other than that of the Court of Chancery.

The reasoning upon which the justice of such an appropriation is founded would equally justify an application of the fund in discharge of the National Debt. It is said that the suitors have neither collectively nor individually any right or interest in the fund in question beyond the guarantee which the fund B. (as it is designated in the Report of the majority of the Commissioners upon this subject) affords them—namely, a *guarantee* against any deficiency in fund A., in the event of a fall in the 3*l.* per Cents. below 87*l.* That there is no trust beyond this impressed upon the fund for the benefit of the suitors as a body. That there is no possibility of tracing the interest that any individual may have in the accumulations made by employment of his money, even if a *quasi* trust in such accumulation were supposed to exist for his benefit, and it were assumed that the State is not at liberty to make a profit of money held by one of its tribunals during litigation, as a stakeholder for the successful party. It is further said that the fund is in fact in part constituted of moneys raised by taxes on common law proceedings, and that at various epochs common law proceedings were taxed in order to make good the defalcations of the masters, and to provide for the salaries of officers or judges of the Court of Chancery; and that in Ireland an application has been made of the money of the suitors in Chancery to the building of courts for the use of several other tribunals.

Now I do not think it necessary to insist on any abstract right being vested in the suitors of the Court of Chancery whose money has been properly employed under the sanction of divers Acts of Parliament, to claim either collectively or individually any part of that profit. There can be no doubt that it is not a right capable of being enforced by any remedy, but on the other hand there is something startling in the proposition that the profit arising from investment of money of which the Court of Chancery became possessed, merely as stakeholder for litigants could be legitimately transferred by Parliament to the Chancellor of the Exchequer for the purpose (say) of carrying on the Russian or Chinese war. The principle, however, contended for goes to that full extent. As a matter of fact this has not, up to the present moment, been the view of the Legislature. No application, in England at least, has been made of that which in the several Acts of Parliament is always called the "Suitors' Fund of the Court of Chancery" to any purpose unconnected with the benefit of the suitors in the Court.

I conceive the view of the Legislature to have been that as it could not, without violation of the general rights of property have compelled *d priori* the suitor to deposit his cash in court for the purpose of obtaining a banker's profit for State objects, so it cannot with propriety subsequently apply a fund thus realised to the general purposes of the State. On the contrary hypothesis there would be an impression on the mind of every suitor that his money was impounded not so much for his own security as for the purpose of trafficking with it for State objects, and that which he now regards as a valuable protection of his interests would assume the equivocal shape of a government speculation at his expense. This feeling would certainly be aggravated if on a close examination he became aware that part of the fund appropriated to Government purposes was a "material guarantee" for his own security of cash payment in the event of the funds falling below 87. However remote the probability of a loss from such a fall (though during the great war they fell very far below that value), yet I am of opinion that the suitor would feel himself aggrieved, and that his confidence in the administration of justice would be shaken, were the fund in question appropriated by the State to any general purpose, or any purpose in which he has no direct interest.

I would give as a case analogous to that which I am now considering the case of a charitable foundation for a school, but partly supported by the payment of a given sum of head money annually contributed by the scholars. Assume a fund accumulated beyond the immediate necessities of the school and the question to be whether the accumulated fund should be applied in providing better teachers or school buildings—or in diminishing the tax of head-money in future, on the suggestion of the trustees on the one hand, or should be applied, on the application of the governors of a hospital in the town, on the other, to improve their charity. I put the case much lower than the principle asserted, namely, of absolute State control over the fund, for that would invite a suggestion of applying the accumulated school fund to the national defences or the like. I think few would hesitate to say which was the more reasonable application of the fund. A moral fitness seems to suggest that that money contributed for the supposed necessities of the school should not be applied to any other purpose, though no former pupil or body of pupils could assert a specific right to any portion of the accumulation. The true

analysis of this feeling of moral fitness shows it, I think, to be founded on the disquiet and irritation that would be produced in all future contributors of money for school purposes after such first diversion of the fund. They would feel that they too might be constantly overcharged in order to make a profit for other purposes than the school purposes. So when the State applies the profit of the Suitors' Fund to providing accommodation for the suitor, or to the diminution of the fees payable to the Court, although the former suitors who have contributed to the fund may derive no profit from such application (a fact not to be assumed as incontestable with regard to many of them), yet each successive body of suitors feels that the profit to be made of his money is required for his benefit, inasmuch as he would otherwise have to pay heavier fees to the same Court where his money is deposited. It is no small evil to the suitor that whilst waiting for the decision of the Court he cannot employ his money as he will, and he might reasonably ask to have some share at least in the profit made by its investment, even where he has not chosen to incur the risk of an investment in three per cents. The Court operating on a large fund and for long periods is sure of its profit, the suitor waiting in uncertainty for his fund is afraid of having to realise it at a loss.

But as the Court of Chancery is not a mercantile concern, it should employ the accidental advantage it possesses in the large deposits of the aggregate body of suitors for their benefit. How can this be done better than by diminishing the fees they would otherwise have to pay? I confess that I myself entertain a strong opinion that all courts for the administration of justice should be supported by general taxation; and that the protection of property requires that the maintenance of the civil tribunals, no less than the police and military force of the country, should be a public burden. Hitherto, however, this principle has not been generally admitted, and the courts have, more or less, been supported by a tax on the suitors of each court in the shape of fees. What pretence, however, can we have for making a profit of the suitor's money, and yet charging him with fees to obtain justice?

The fees have hitherto been greatly diminished by means of this profit. This is, in my judgment, its most legitimate application; and in some twenty or thirty years, when compensations now payable for suppressed offices will fall in, I believe all fees might be abolished. The fees of court now amount to 8 per cent. of the suitors' total expense of litigation, a very considerable item; but if you now take all the profit derived from the suitors' cash, in order to build common law courts, an admiralty court, &c., and prevent the abolition of fees on chancery proceedings, you will, in fact, levy fees on a man engaged in a chancery suit, in order to enable other persons to conduct suits more at their ease before the common law, divorce, or admiralty judges. If the principle of levying fees on the suitor be just, it can only be on the ground that the Court sits for his benefit. But how is the chancery suitor benefited by the better accommodation afforded to an applicant for a divorce? It is almost a humorous suggestion on the part of one witness, that many men have the misfortune of becoming litigants in every court in succession. They would at least, I think, like to wait till the misfortune occurred, rather than be taxed for such possible advantages by anticipation.

It is, however, urged, that the Legislature, more than one hundred years ago, imposed a tax upon proceedings at common law, in order to replace the funds of the suitors in chancery, which had been lost through the insolvency of the masters of that court, that the tax was afterwards made perpetual, and applied to the payment of officers of the Court of Chancery. To this I reply, that the State was bound to remedy the wrong done to the suitors in chancery by the officers of a public tribunal. I do not think the means taken to redress that wrong justifiable; but at that period special taxes were raised for meeting special public charges, which would now be charged generally on the Consolidated Fund. Thus, the robbery of the City Orphan Chambers in the time of Charles II. was made good by a tax on coals imported into London; and many other yet more objectionable cases might be cited of taxes levied for purposes singularly remote from any matter in which the tax-payer was concerned. I do not think that such a course as that of levying fees at common law to pay officers in chancery would now meet with a single supporter in Parliament. It is suggested that a part of the very fees so levied on common law proceedings remained unappropriated. If this portion can be now estimated, I see no objection to its being employed in erecting the common law courts. It is further said that suitors in chancery will be benefited by the contiguity of the other courts, inasmuch as all business in which solicitors are employed will be better and more economically performed after a concentration of the Courts has taken place. This is the argument generally used to reconcile the taxed classes to a new tax; viz., that they will reap the benefit of it by some circuitous and indirect results. It is not, however, found to be satisfactory or convincing. The chancery suitors would certainly prefer a reduction of 8 per cent. in the cost of a chancery suit to any speculative benefit of the kind suggested.

I think, therefore, that Parliament has justly and wisely hitherto confined the application of the profit made by the suitors' money to the benefit of the suitors in chancery, without stopping to inquire minutely whether the suitor to be relieved be identical with the suitor whose cash produced the profit; because it thereby satisfies every successive suitor whose money is made use of, that a profit is not made at his expense without a corresponding benefit to him; for if that profit were not applied to purposes connected with the Court of Chancery, usually paid for by fees, he would have to submit to the payment of fees for the same purposes; when, if the profit resulting from the suitors' cash be now applied to the building of common law, admiralty, and other courts, the fees payable in chancery will probably have to be increased, and the suitor, already sufficiently vexed by litigation, will justly feel that a profit is in effect made by the State of his misfortune, for the State will be saved the expenditure of money by making use of the profits derived from the suitors' payments into court.

I think that, on general principles of political expediency, much might be urged against the propriety of allowing the Chancellor of the Exchequer to look to such a source of revenue as the profitable employment of the money held in deposit for litigants. On that branch of the subject I forbear, however, to enter, and will conclude these observations by saying, that although the great weight of the contrary opinion entertained by the majority of the commissioners has pressed much upon me, I cannot help entertaining a conviction (doubtful by the evidence of the Master of the Rolls and Lord Justice Turner), that the first step towards the appropriation of the suitors' fund to purposes unconnected with the business of the suitors would be erroneous and unjust.

W. F. Wood.

The Courts, Appointments, Promotions, Vacancies, &c.

OXFORD CIRCUIT.—STAFFORD.

Mr. Justice Hill arrived in this town on the 19th inst., and opened the commission for the county of Stafford. His lordship was met at the railway station by the high sheriff, Mr. Richard Howard Heywood, and a body of police, who have now superseded the mediæval javelinmen. The police were under the command of Colonel Hogg, the chief of the county constabulary. The learned judge, after opening the commission, proceeded to attend divine service at St. Mary's.

The cause list contained an entry of twenty-one causes, seven of which were marked for special juries. The calendar contained the names of sixty-two prisoners, charged with offences of a serious description. Four were charged with murder, six with cutting and wounding with intent, eight with rape, one with manslaughter, three with unnatural offences, three with endeavouring to conceal births, four with robbery, eight with burglary, three with uttering forged Bank of England notes, two with uttering base coin, four with destroying machinery, one with bigamy, three with obtaining money by false pretences, and twelve with larceny.

HOME CIRCUIT.—LEWES.

The commission for the county of Sussex was opened in this town on the 20th inst., and on the following morning business was proceeded with at 10 o'clock, Lord Chief Justice Cockburn presiding on the Crown side and Mr. Justice Blackburn at Nisi Prius. The entry of causes was rather large for this place, there were four special jury and seven common jury cases to be disposed of. On the Crown side there were twenty-seven prisoners, and among the charges was one of murder and three of manslaughter. The charge against Mr. Hopley, the schoolmaster at Eastbourne, of causing the death of one of his scholars by brutal treatment in the shape of flogging, and the case of Mr. Bull, a surgeon, who was charged with causing the death of his mother by negligently administering to her

an excessive dose of prussic acid, appeared to create very great interest. The other cases in the calendar were of the ordinary description.

MIDLAND CIRCUIT.—Derby.

July 26.—The commission for the county of Derby was opened this day by Mr. Justice Wightman and Mr. Justice Williams.

The calendar contained the names of 28 prisoners. In the civil list there were fourteen causes entered, of which two were special juries.

Lincoln.

The commission was opened here on the 21st instant by Mr. Justice Williams. The calendar for the county contained the names of twelve prisoners, and there was an entry of three causes only on the civil side.

NORFOLK CIRCUIT.—Norwich.

July 26.—The commissions for the county of Norfolk and for the county of the city of Norwich were opened on the 25th inst. by the Lord Chief Baron.

There were fourteen causes entered for the county, three of them being marked as special juries, and two for the city; making a total of 16.

The calendar for the county contained the names of 17 prisoners.

In the city there were 8 prisoners for trial.

NORTHERN CIRCUIT.—Durham.

The commission was opened in this city on Saturday, the 21st instant, by Mr. Baron Wilde. The cause list contained an entry of twenty causes, four of which were marked for special juries.

WESTERN CIRCUIT.—Dorchester.

The commission was opened here, on the 21st instant, by Mr. Baron Channell.

This day Mr. Justice Keating took his seat in the Crown Court, and Mr. Baron Channell in the Nisi Prius Court.

The calendar contained the names of 13 prisoners, and there was an entry of four causes only on the civil side.

Salisbury.

The learned judges, Mr. Baron Channell and Mr. Justice Keating, opened the commission for holding the assizes for the county of Wilts in this city on the 18th inst.

The business was extremely light, there being only thirteen prisoners for trial, and but three Nisi Prius causes.

Mr. Alfred Burton Cowdell, of the firm of Cowdell & Boyce, of No. 21, Abchurch-lane, City, has been appointed a commissioner to take oaths in the Courts of Queen's Bench, Common Pleas, and Exchequer.

Mr. Charles Maddock, Gent., 4, Regent-terrace, Stepney, has been appointed a London Commissioner to administer oaths in the High Court of Chancery.

The Queen has been pleased to appoint David S. Kerr, George J. Thomson, Charles Duff, and Andrew Rainsford Wetmore, Esqrs., to be her Majesty's counsel in the province of New Brunswick.

Her Majesty has also been pleased to appoint James Lushington Wildman, Esq., to be senior stipendiary magistrate for Port Louis, in the Island of Mauritius.

Parliament and Legislation.

HOUSE OF LORDS.

Monday, July 23.

Friendly Societies Act Amendment.

This Bill passed through committee.

Criminal Lunatic Asylums.

This Bill was read a third time and passed.

Court of Queen's Bench Act Amendment.

This Bill was read a third time and passed.

Tuesday, July 24.

Lands Clauses Consolidation Act (1845) Amendment.

This Bill passed through committee.

Felony and Misdemeanour.

Lord Brougham moved the second reading of this Bill. It provided that in criminal cases where the counsel appearing for the defence called no witnesses, the prosecutor should have the right to reply, having called his witnesses in the first instance; but where defendant's counsel examined witnesses in behalf of his client he should have the right of summing up the evidence before the general reply for the prosecution commenced. In too many cases it was found that counsel for the defence, being afraid of the speech in reply at the other side, abstained from calling witnesses, thereby defeating the very aim and end of justice—namely, the discovery of truth. They endeavoured to get as much as possible into the speech which they were permitted; and from not being precisely acquainted with the tenor of the evidence to be brought forward, they were led into arguments needlessly long and wide of the subject. The great recommendation of the Bill was that it placed the procedure in cases of felony and misdemeanour on the same footing as in civil cases. He did not support it on the ground of its being more favourable to prisoners and defendants, but because it was calculated to elicit the truth.

Lord Wensleydale felt great objections to the measure. The nature of civil and criminal proceedings was entirely different. In the former, which were often most complicated, a clear exposition of the law was requisite in the first instance, and difficulties which constantly presented themselves required to be elucidated by argument. But in any criminal case in which a conviction could be hoped for, it was necessary that the facts should appear clearly on the depositions; and long speeches would only consume the time of the Court, without being attended with any corresponding benefit. He therefore moved that the Bill be read a second time that day six months.

Lord Chelmsford was unable to understand on what principle it could be refused to place counsel in criminal cases on the same footing as in civil actions. The consumption of time, he thought, was wholly beside the question. If it were just and proper that counsel should have this right, the time employed was a secondary matter as compared with the attainment of justice. The counsel for the prosecution had always the advantage of basing his statement on ascertained facts, the defendant's counsel, on the contrary, having to treat of evidence which, in most cases, had never before been adduced. He hoped that their lordships would read the Bill a second time.

The Lord Chancellor said that, though he was quite persuaded that this Bill would lengthen trials, yet if it were necessary for the proper administration of criminal justice, the question of time ought not to have any weight in their decision. The principle, however, had been tried in civil cases, and, on the whole, successfully; and it might be of use in criminal cases—though, if it were to pass, he could not help feeling some satisfaction that he would no longer have to go circuit. He was afraid that the multiplication of speeches would tend to the perplexing of juries. In Scotland there were only two speeches in criminal cases, one for the prisoner and one for the prosecution, and both after the evidence had been given. This practice had been found very successful. Still, as this right of summing up might be essential in some cases, he would not withhold his assent, though it was with some misgiving and hesitation that he gave it.

Lord Cranworth thought the Bill would very unnecessarily lengthen trials, and anything which made the proceedings of criminal courts more distasteful to prosecutors must be generally injurious, and prevent the detection and punishment of crime. He suggested that the Bill might be qualified in this way—that the presiding judge might allow two speeches if he thought the case one of such difficulty and doubt as to make it reasonable. They would thus secure the object in view whenever it was necessary, and yet save the unnecessary protraction of all trials, because every counsel would construe the powers into a duty to address the jury a second time.

After some observations from Lord Ellenborough the House divided.

The result of the division was—

Contents	13
Non-contents	10
Majority	3

The Bill was then read a second time.

Thursday, July 26.

MARRIAGE LAW IN SCOTLAND.

The LORD CHANCELLOR moved the second reading of this Bill, and explained that its chief object was to enact that no one could apply for a divorce in Scotland who was not really domiciled in that country in regard to succession, and to render the declaration of divorce of a Scotch court operative throughout the United Kingdom.

Lord BROUGHAM said the Bill was calculated to remove many of the anomalies which existed in the law of the two countries. At present a sentence regularly pronounced in Scotland dissolving a marriage had no effect whatever upon a marriage subsequently contracted in England. A person divorced from his English wife in Scotland, returning to England and there intermarrying with another woman, had been found guilty of felony, sentenced to transportation for life, and actually in part underwent the punishment, thus paying in his own person the penalty of the conflict of law between the two countries. Not only so, but the issue of the second marriage, if there had been any, would have been held to be illegitimate in England, although in Scotland they would have been as legitimate as any one of their lordships. A man might be legitimate in Scotland but bastard in England—legitimate if he claimed in England personal property, illegitimate if he claimed landed property. All these anomalies were sought to be removed by the provisions of this Bill. He thought it a great improvement to have the interposition of the Lord Advocate for the purpose of preventing fraud and collusion.

Lord REDESDALE did not think it a desirable change to introduce into the law, by which a person in England might go to Scotland and by domicile there obtain a divorce on very different terms from what obtained in England.

The Bill was then read a second time.

THE LANDS CLAUSES CONSOLIDATION ACT, 1845, AMENDMENT.

This Bill passed through committee.

THE QUEEN'S PRISON.

This Bill also passed through committee.

FELONY AND MISDEMEANOUR.

The House went into committee on this Bill.

Lord WENSLEYDALE said he entertained grave objections to the additional speeches which it was proposed to allow to counsel. The occasions he thought must be of rare occurrence where the effect could be beneficial, while a great waste of time must necessarily ensue. He therefore begged to move the insertion of the words "if the judge thinks the said evidence requires to be commented upon."

Lord BROUGHAM said he by no means approved the proposed amendment, but, remembering that the 12th of August was near at hand, that other things betokened the approach of the end of the session, and that both in that House and elsewhere, the formidable body of chairmen of quarter sessions was largely represented, and that the insertion of such a clause would facilitate the passing of the Bill, he was disposed to waive his private opinion and to consent to the noble and learned lord's proposal, in the belief that he was thereby improving the administration of criminal justice.

Lord ELLENBOROUGH thought it was casting on the judge a very invidious duty, and one which in most cases he would be slow in undertaking, to require him to decide whether a particular speech ought or ought not to be made.

The LORD CHANCELLOR said the Bill would operate unfairly in the case of a prisoner who was undefended by counsel, but who called witnesses in his own behalf. The prosecutor would thereby be entitled to a speech in reply, in addition to that made in opening the case, although no one had addressed the jury for the defence. In cases where there are more prisoners than one, only one having obtained the benefit of legal assistance, the injustice would be even more apparent.

Lord CHELMSFORD said it very rarely happened that prisoners who were undefended by counsel produced witnesses in their own behalf. In nine cases out of ten no evidence whatever was given for the defence.

After some further discussion the clause as amended was agreed to, and the Bill passed through committee.

ADMIRALTY COURT JURISDICTION.

The LORD CHANCELLOR said that this Bill, sent from the other House, and standing for committal to-morrow, which contained some valuable provisions for improving the jurisdiction of the Court of Admiralty, could not be altered without interfering with the privileges of the House of Commons, and, as some amendments might be necessary, he thought the best course would be to withdraw the Bill, and that another in a modified form should be introduced.

Lord BROUGHAM believed the Bill contained some very important and salutary amendments in the Admiralty Court jurisdiction. He denied that their lordships were not entitled, they had a strict legal right, to send down the Bill in whatever shape they pleased, even as to money clauses; but it was for the other House to consider how they should deal with Bills so altered.

After a few words from Lord CRANWORTH the order for the committal of the Bill was discharged.

THE CONVICT ESTABLISHMENT AT BERMUDA.

The Earl of CARNARVON, in calling the attention of her Majesty's Government to a recent statement in the Bermuda Convict Establishment Report, 1860, page 15, by the chaplain, as to the condition of the convicts, said that in every other part of the British empire the system of hulks had been abolished, but it was retained at Bermuda. All persons who had turned their attention to the subject said that, from want of space and other causes it was perfectly impossible to exercise a supervision over the convicts, and to enforce discipline among them on board of hulks. By the last returns of 1,500 convicts in confinement at Bermuda, two-thirds were confined in hulks. The effect of this on the prisoners would be best described by quoting a passage from the report of the chaplain. The rev. gentleman said:—"It is my painful conviction, after some years' experience of the matter, that the great majority of the prisoners confined in the hulks become incurably corrupted, and that they leave them, in most cases, more reckless and hardened in sin than they were upon reception." He then went on to describe convict life between decks in this very strong language:—"Few are aware of the extent of suffering to which a prisoner is exposed on board the hulks, or the horrible nature of the associations by which he is surrounded. There is no safety for life, no supervision over the bad, no protection to the good. The hulks are unfit for a tropical climate. They are productive of sins of such foul impurity and unnatural crime that one even shudders to mention them. In the close and stifling nights of summer the heat between decks is so oppressive as to make the stench intolerable, and to cause the miserable inmates frequently to strip off every vestige of clothing and gasp at the portholes for a breath of air. A mob law, and tyranny of the strong over the weak, exists below, which makes the well-disposed live in constant misery and terror; and when the passions of these lawless and desperate men are excited by quarrels among themselves the most deadly and murderous affrays are the consequence. The spectacle on board the Medway hulk upon the 1st of June last, when one prisoner was slain and twenty-four desperately wounded, would have appalled any humane heart. The hulk was a perfect shambles, and a frightful scene of uproar, excitement, and bloodshed. Suffice it to say, that a mere handful of warders was powerless to deal with the armed mob below decks. All that could be done was to fasten down the hatches, and when the work of butchery and carnage was over descend below to fetch up the dead and wounded." It was not too much to say that if this statement were true the Bermuda hulks were practically a repetition of Norfolk Island and all its abominations. He was for punishing criminals as severely as their crimes merited, but the State was not justified in treating them in such a manner that when they went out into the world again, they were infinitely more depraved than before. It might be doubted whether the chaplain's feelings had not led him to overcolour this picture, but he was afraid that was not the case. The mere fact of the existence of the hulks was very much in favour of his statement, and its accuracy was confirmed too by the very significant words with which the medical officer concluded his report:—"Permit me, in conclusion, to state, there are many subjects connected with the well-being of the convict establishment, of which I could wish to make some observations, but decline doing so, as it would doubtless be considered unbecoming in me to extend my remarks to subjects not affecting my own department." He observed that last year there were not less than 1,200 prison offences committed, and that alone augured an unwholesome and unsatisfactory state of things. It was stated that the accommodation for the officers was so miserably bad that they were constantly resigning, that fourteen officers were crowded in a room 30 feet long by 30 feet wide, and that the changes by resignations prevented their becoming acquainted with the individual habits of the convicts under their charge.

The governor was absent when the chaplain's report was sent off, but his *locum tenens* accompanied the report with the comment that he did not see any good reason why the conduct of the men at the hulks should be worse than in a prison on shore. If it were not worse it would be contrary to all experience. The governor, after his return to the island, wrote a despatch, in which he said that he had read the chaplain's report with astonishment, and that he hoped he had been enormously imposed upon by the accounts of the prisoners. He feared that, if there had been any imposition, the governor, and not the chaplain, had been the subject of it. He trusted that her Majesty's Government would order the most searching inquiry, and that, if the chaplain's account proved correct no consideration would deter them from dealing summarily with the matter, and, if necessary, abolishing the hulks.

Earl GRANVILLE said the governor and acting-governor had thrown doubts on the accuracy of the chaplain's report. Inquiries had been set on foot, and probably the Secretary of State for the Colonies would make a personal investigation on the spot.

HOUSE OF COMMONS.

Tuesday, July 24.

SENIOR MEMBER OF COUNCIL (INDIA).

On the motion of Lord PALMERSTON (in the absence of Sir C. Wood), leave was given to bring in a Bill to remove doubts as to the authority of the Senior Member of Council of the Governor-General of India, in the absence of the President.

Wednesday, July 25.

CORONERS.

On the order of the day for the second reading of the Bill brought in by the Home Secretary, he moved that the order be discharged.

The motion was agreed to, and the Bill was consequently withdrawn.

On the motion of Mr. COBBETT the Bill brought in by him on this subject was read a third time and passed.

HIGHWAYS.

The HOME SECRETARY said there was very little chance of this Bill passing during the present session. He would therefore move that the order of the day for going into committee on the Bill be discharged.

It was discharged accordingly.

LARCENY LAWS CONSOLIDATION ACT AMENDMENT.

In this case also, on the motion of the HOME SECRETARY, the order of the day was discharged, and the Bill withdrawn.

RIFLE VOLUNTEER CORPS.

This Bill went through committee *pro formâ*.

NEW WRIT.

A new writ was ordered for the election of a representative for the borough of Sligo, in the room of the Right Honourable J. A. Wynne, who has accepted the Chiltern Hundreds.

Thursday, July 26.

RIFLE VOLUNTEER CORPS.

This Bill was passed through committee.

THE CONSOLIDATION OF THE CRIMINAL LAW.

Mr. HADFIELD asked the noble lord at the head of the Government whether he intended to proceed during the present session with the seven bills relating to the consolidation of the criminal law which had come down from the House of Lords.

Lord PALMERSTON said that there were two courses which the House might adopt with regard to these Bills. It might either refuse to entertain them, on the ground that it was necessary to go through them clause by clause and examine every provision which they contained, in which case it would be impossible ever to consolidate the law, or it might take upon trust the accuracy of the consolidation, pass the Bills, and, if upon examination it was found that any of them required amendment, might take them up separately with that object in a future session. He intended on a future day—probably in the course of a week—to ask the House to determine which of these courses it would adopt. He should hope it would take the latter.

Recent Decisions.

COMMON LAW.

[*By* JAMES STEPHEN, Esq., *Barrister-at-Law.*]

ARTICLED CLERK, ADMISSION OF AFTER TERM TIME.

Ex parte Thomas, 8 W. R., Q. B., 522.

It has been the practice of the examiners to admit articled clerks to examination in the term in the course of which their articles expire, though the day of expiration may have been subsequent to that on which the examination is held. Moreover, though attorneys, previously to their being admitted, are usually sworn in at Westminster in term time and in open court, it is not unusual for solicitors to be admitted out of term. In the present case, an application was made to the Court of Queen's Bench to extend a little the above practice, by allowing an articled clerk, whose articles expired two days after term, to be examined in the term, and admitted after his articles were out; and, as it appeared from the affidavits, that there were special circumstances in the case which made this indulgence very desirable to the parties, and as there is nothing in 6 & 7 Vict. c. 73, which expressly requires the admission either of attorneys or solicitors to be in term time, the Court acceded to the application.

EQUITABLE PLEADINGS, WHEN THEY WILL NOT BE ALLOWED.

Schlumberger v. *Lister*, 8 W. R., Q. B., 523.

This is an important decision with regard to equitable pleading; for the general principles laid down by the courts of law, as those by which they will be governed in their use of the clauses on this subject in the Procedure Act of 1854, have hitherto been very few, and, indeed, may be said to resolve themselves into different applications of the single doctrine that equitable relief in a court of law will only be administered in those cases in which a court of equity would grant against a defendant or plaintiff, as the case may be, an unconditional and perpetual injunction against the exercise of his legal remedy. Moreover, as the Common Law Procedure Act of 1860 is not, as it appears, to work any very material extension in the equitable powers of the courts of common law, and none at all so far as regards the subject of equitable pleadings or replication, it becomes all the more necessary to collect together the decisions upon this subject. The present case, then lays down a more general principle in addition to the one to which reference has been already made; and establishes that a court of law will not allow an equitable defence to be set up where the defendant has filed a bill raising the same question in a court of equity. This doctrine was enunciated under the following circumstances:—A. brought an action against B. for infringement of a patent, to which B. pleaded a special plea of confession and avoidance, and at the same time filed a bill in equity seeking the reformation of a certain deed under which he had acted in reference to the patent, and also an injunction against A.'s proceeding with his action. The plaintiff replied *equitably* to the defendant's plea, on which B. applied for leave to *rejoin* equitably. But the Court said they entertained, and that very clearly, the view that a person who has sought relief in equity cannot raise the same question in a court of law. To permit such a practice would be to frustrate the main object of the Legislature in permitting equitable questions to be raised in courts of law—viz., to obviate the necessity of having to go to a court of law for one part of your relief, and to a court of equity for another.

MASTER AND SERVANT, LAW AS TO — ACTIONS FOR INJURIES.

Potts v. *The Port Carlisle Dock and Railway Company*, 8 W. R., Q. B., 524.

It has been conclusively established by a host of modern authorities, which apply the law originally laid down in *Priestley* v. *Fowler*, 3 M. & W. 1, to instances in which the "master" is a railway or other public company, and to other connections between employers and those they employ, which raise the relationship of master and servant between the parties—that the servant cannot sue his master for an injury suffered in service, unless he can show *personal negligence* on the part of the defendant. There is some difficulty, occasionally, in applying this rule to individual cases; and little can be done in the way of defining the rule more closely with regard to this or that class of accidents. The present case, however, supplys a *subordinate* rule of a useful character, namely, that

where the injury is caused by the breaking of a machine, it will not be enough to show that the machine was defectively constructed; it must in addition be shown that the master employed incompetent persons to construct the machine. In other words, it is not sufficient in such an action for the plaintiff to leave the case in a state in which the inference from the facts proved is as strong in favour of reasonable care as of negligence on the part of the defendant.

Correspondence.

LIABILITY OF LETTER CARRIERS.

Unless the letter carrier has some criminal object in delivering the letters in the manner stated by "A Letter Receiver" in the last *Solicitors' Journal*, he cannot be punished. A private individual has no right to direct how his letters shall be delivered. If the Post-office master has issued orders, which have been disregarded, no doubt an application to him would result in the dismissal of the man (who is his servant), on a repetition of the offence. E. M.

THE LAW OF COUNSEL'S RETAINER UNDER SPECIAL CONTRACT.

Can any of your subscribers give me an answer to the following query?

An attorney, wishing to secure the services of two of the leading members of the bar, gave them the usual retainer, and, about ten days before the day appointed for the hearing of the cause, called upon their respective clerks *and made a special bargain with each*, to the effect "that in consideration of the respective counsel giving up *their whole time* to the cause in question, much larger fees than usual should be paid to them, and large daily refreshers should be also given." The attorney then delivered the briefs and paid the fees therewith. On the day the cause came on for hearing, one of the learned counsel was present, the other was not; on the second day (without any notice to the attorney) both were absent, save that the one who was absent entirely the first day came into court for about twenty minutes in the middle of the day, opened his brief, and attempted to cross-examine a witness, but, knowing apparently nothing whatever of the case or the contents of his brief, he was quickly informed by the judge that, "although he might think fit not to attend to his case properly, he would not be allowed to waste the time of the Court and jury." Whereupon he closed his brief and vanished; the other came into court at the close of the day, just as the juniors, feeling the case was lost through the absence of the leaders, had consented to a verdict against them.

It was a special feature of the arrangement with the leaders' clerks that the counsel *should give their whole time to the case, and attend day by day*. And the query is:—On the above facts is it possible to sue the diligent and honest gentlemen (who pocketed respectively 200 guineas and 150 guineas to attend to the interest of their client, and did not do it, but nevertheless kept the fees), either for a return of the fees, or for damages for breach of "a special contract?"

The writer of this conceives that having entered into a special bargain with their respective clerks, the case is taken out of the ordinary class of payments to counsel, which being mere *honoraria* cannot be recovered.

A SUBSCRIBER FROM THE COMMENCEMENT.

P.S. I should add, neither of the learned counsel have applied for the refreshers, though one does not recognise the propriety of an application for the return of some portion of his large fee, and the other does not condescend to notice a similar application at all.

The Provinces.

GLOUCESTER.—A curious auction took place here a few days since. The place of sale was the city gaol, and the articles sold were the bedsteads, bedding, and clothing, provided for the prisoners, including the treadwheel. For a long time the gaol has been without prisoners, except a tortoise, forty years of age. The treadwheel, which cost one hundred guineas, sold for five, to be broken up. There were inquiries for the gallows, but they will continue to be part of the city property.

LICHFIELD.—On Tuesday, the 17th inst., Thomas Gregory was brought before the ex-Mayor, William Elkington, charged with breaking into the dwelling house of William Greene, Esq., solicitor. Mr. Greene, who resides in a detached house in Upper John-street, stated that he went from home on the previous evening, and returned about one o'clock on the following morning. On going along the walk towards the front door, he saw the prisoner standing on the turf near the house; witness seized him, made an alarm, and, after a hard struggle, held him till a neighbour named Derry arrived. Leaving the prisoner with Derry, he went to the front door, which he found half open, there being also a round aperture, about five inches diameter, in one of the panels. Nothing appeared to have been displaced but the hall lamp, which he found on the floor behind the door. His servants had not been disturbed. Police-constable Eccleshall deposed to finding on the prisoner house-breaking implements, and also that two windows were open. The prisoner was committed for trial at the assizes. The police are on the look out for two accomplices, who had been seen in his company during the week.

Ireland.

LANDED ESTATES COURT.

(Before the Honourable Judge HARGREAVE.)

In the matter of the estate of Francis and William O'Ryan.—July 19th.—A question arose in this case upon the construction of the Registry Act, namely—whether a legacy charged in the first instance on personal estate, and in default of personal estate upon land, came within the provisions of the Registry Act, so that a registered assignment of it would prevail against a prior unregistered settlement.

The learned JUDGE, after considering the case in the English court of *Malcolm* v. *Charlesworth* (1 Keen, 63), stated that in his opinion the intention of the Registry Act was that every charge or incumbrance, however created, which affected lands, came within the scope of the Act, so that an assignment of such charge, if unregistered, would be void against a subsequent unregistered instrument, dealing with the charge. No doubt, the difficulty arose, that as regards the personal estate, which was primarily liable, the settlement had priority, and, as regards the real estate, the registered instrument had priority; but that result was one incident to every case within the registry, when real and personal estate was concerned, and the same state of things often arose under the Fines and Recoveries Act, with respect to assignments by married women. As no case of notice was made out, Mr. Grace, the claimant under the registered assignment, was entitled to the benefit of the charge in question.

The assizes now nearly over throughout Ireland are remarkable for the very considerable diminution of crime. In the county of Antrim, one of the largest in Ireland, there were only three custody cases. Mr. Justice Fitzgerald said,—"That presents the whole of the custody cases in a county such as this, so large in geographical extent, and presenting a population second only to the county of Cork, including, also as it does, within it the great borough of Belfast. Among those cases there is not one which would require from me any special observation; they are of the ordinary character." The learned judge very properly called attention to the Party Processions Act, and urged the grand jury to unite vigorously with the authorities in putting down these processions—provocative as they nearly always are of party riots. But the exceptional nature of these crimes—arising from old party feuds not yet quite dead—is shown very clearly by the state of the calendar laid before the Court. The other counties of Ireland where assizes have been already held show gratifying results similar in kind. In Armagh, disgraced the other day by the Lurgan riots, the calendar—not including, of course, these very recent offences—was so light as to simply give the judge the pleasant task of congratulating the grand jury. In Monaghan, another northern county, Judge Ball had to announce to the grand jury that "there were but two prisoners, and those for petty larcenies." At the Roscommon assizes there were only seven for trial, and the heaviest of these was a case of manslaughter arising out of a drunken fray; the whole of the cases were disposed of in half a day. In Clare Judge Hayes announced only four prisoners for trial, and only one serious case among them. In Meath the Lord Chief Justice said, "The calendar is perfectly free from agrarian crime." In Limerick B

Fitzgerald, addressing the county grand jury, said, "It is very gratifying to find that in such an extensive county there are only seven cases for trial, and only one of magnitude." At the city of Limerick assizes there was no criminal business, and Judge Hayes received a present of "white gloves" from the High Sheriff. At Wexford, Mr. Justice O'Brien had a light task; he had only "a few words" to address to the grand jury, and though the two only cases were both technically manslaughter, one was in fact more like a police case of furious driving. Mr. Justice Keogh told the King's County grand jury that "no crime had been committed since the last assizes," and there were but four bills sent up, old cases remaining over. In Westmeath the same judge again congratulated a grand jury, and declared that "there never was so little agrarian outrage in the county." In the extensive county of Down, Judge Ball found that "substantially the cases were reduced to three." In Wicklow, the Lord Chief Baron said, "The calendar is very light, and there are only two cases, neither of which will take much time." In Leitrim, Mr. Serjeant Howley told the grand jury that "there were only two cases, the most important of which was a charge of maliciously killing a goat;" and the learned serjeant added, "I am bound to congratulate you on the very peaceful state of your county, which is a credit to you, gentlemen." We might add to these extracts, but we have given enough. This *toujours perdrix* of congratulations may tire our readers, but it "points the moral" that the great body of the Irish people is engaged in peaceful industry, and that the noisy rascals who break one another's heads in the north, or emigrate from the south to do the same thing in Rome, are but the accidental offscourings and outcasts who arise in all communities.—*Globe.*

Review.

A Practical Treatise on the Law of Marriage, Divorce, and Legitimacy, as administered in the Divorce Court and in the House of Lords. Second edition greatly enlarged. By JOHN FRASER MACQUEEN, Esq., of Lincoln's-inn, Barrister-at-law; author of "Rights and Liabilities of Husband and Wife;" "Appellate Jurisdiction of the House of Lords," and "Parliamentary Divorce," &c. London: Maxwell; Sweet; Stevens & Sons. 1860.

A new book resplendent in gold letters, and bound in the fashionable colours of *Mauve* and Magenta, upon a topic, moreover, of the widest and liveliest interest, deserves perhaps some more attractive title than what Mr. Macqueen has conferred upon the second edition of his well known treatise upon the law of divorce. It only needed to be called the "English woman's Best Companion," the "Adventures of a Lady in search of Freedom," "Advice to Young People about to Marry," or some such suggestive name, to have forced it upon the attention of Mr. Mudie, and other circulating librarians, who cater for the book-consuming public. But, although Mr. Macqueen is responsible for the title of his work, he may perhaps repudiate the responsibility of its fashionable and somewhat unprofessional binding.

When we say that this work for its own sake, apart from any professional considerations, will well repay the perusal of any ordinary reader, and is equally amusing as it is instructive, we must not be understood as suggesting in any way that it does not fully sustain the high reputation of its author as a legal text writer. When the new Court of Divorce was first constituted, the profession naturally looked to Mr. Macqueen, as the most fitting person to write a treatise upon its law and practice; and we may say at once, that in the volume now before us he has fully answered the expectations which have been entertained about his anticipated performance. Until this volume made its appearance, English lawyers had no work to which they could refer as containing any account of the doctrines of our law touching marriage, divorce, and legitimacy, as administered in the new court. The hand-book of the Messrs. Pritchard, no doubt, contained a digest of cases relating to marriage and divorce, and a set of precedents intended for practitioners which are both extremely useful in their way; and, as is the fashion now-a-days, the Act constituting the new court has been "edited," as the phrase goes, by more than one hand. But it has remained for Mr. Macqueen to deal with the subject completely; and this he has done with his accustomed ability in the volume before us. We are not saying too much when we state that there is no topic within the scope of the subject which he has not fully treated both with respect to the principles involved in it, and the authorities which bear upon it. There is a great deal, especially in the earlier part of the volume, of interesting matter relating to the history of the law of marriage in England and Scotland, and also to recent legislation on the subject. We have also some valuable information as to the provisions of foreign codes respecting divorce and separation. The most important feature of the work, however, is the very admirable chapters on peremptory and discretionary bars to divorce which it contains. Mr. Macqueen has collected all the cases bearing upon questions of condonation and connivance, and in separate chapters treats of the effect of divorce as to remarrying and as to property, the husband's pecuniary claim against the adulterer, the wife's alimony during suit, her permanent provision, the custody, maintenance, and education of children, and whatever touches upon the special jurisdiction of the new court. In a very useful chapter devoted to the discussion of the 5th section of the 22 & 23 Vict. c. 61, which enables the Court after decree to make such orders with reference to settled property as it thinks fit, Mr. Macqueen collects together a number of parliamentary precedents shewing that the power conferred by this section is in accordance with the practice of Parliament in such cases, and refers to a case in which, although the full Court had decreed a divorce against the wife, Wood, V.C., in a suit instituted by the husband to set aside the marriage settlement, decided that the Court of Chancery had no jurisdiction to do so. The power of the Court of Divorce to deal with settled property was not conferred by the Act which originally constituted the Court, and we believe in the case referred to by Mr. Macqueen, the decree pronounced by that Court was prior to the enactment of 22 & 23 Vict. c. 61. We have already shewn* how large is the new field of litigation in the Court of Chancery, which is likely to be opened by the novel relations in respect of the settled property of parties who have been divorced or judicially separated by the new Court. This field, however, will be considerably narrowed by the power which has been conferred in the recent statute upon that tribunal.

A curiously interesting topic on which Mr. Macqueen has effectively brought his learning to bear, is the effect of divorce as to remarrying. He gives as his opinion that after divorce in a case where there are no children, the wife should resume her maiden or other former name; but that where there are any children, especially where they are committed to the care of the mother, "the decision of a thoughtful mother might possibly be different." In the same chapter Mr. Macqueen also discusses the equally knotty question whether those who have been divorced can reunite in marriage. Another doubtful point, which recent legislation has not set at rest, is thus discussed by Mr. Macqueen:—"When," he say, "a wife loses her husband by a sentence of divorce become definitive and irreversible, she may enter into fresh nuptials immediately, and she may select whom she pleases, the statute not prohibiting the intermarriage of adulterers. Suppose a child is born within such time as to admit of its having been begotten by either the first or second husband, shall the infant have a choice of parents; and shall the question remain in doubt till the infant determines it on attaining majority? The curious case put by Blackstone will not solve this mystery. Says the great commentator, laying down the law as settled by decisions:—'If a man dies, and his widow soon after marries again, and a child is born within such a time as that by the course of nature it might have been the child of either husband, in this case the infant will be more than ordinarily legitimate; for when he arrives at discretion he may choose which of the fathers he pleases.' To prevent this, among other inconveniences, the civil law ordained that no widow should marry *infra annum luctûs*; and the same regulation was probably handed down to our early ancestors from the Romans; for we find it well established in this island under the Saxon and Danish governments. If our ancestors, to prevent these 'inconveniences,' as Blackstone calls them, required twelve months, and if the French require ten, how is it that we are satisfied with three, or even a shorter period if an appeal against the divorce is cut off or can be sooner determined?"

Besides giving a very full and detailed and circumstantial account of the ordinary procedure in the Divorce Court, a part of Mr. Macqueen's book is devoted to the subject of appeals to the House of Lords from the Divorce Court, and from the Probate Court; and there is also a chapter on declaratory decrees as to marriage, legitimacy, and the being a natural born subject. Our author, as might be expected, has a very exalted notion of

* See Article "Equities of Divorce," *ante*, p. 340.

the law of Scotland, and he appears to be particularly pleased that actions of declarator should at length be found among legal formulæ south of the Tweed. In the last mentioned chapter, he gives us an account of the Act passed in 1858, to enable persons to establish legitimacy and the validity of marriages and the right to be deemed natural born subjects. He characterises the statute, however, as full of imperfections and as "of course very different from a Bill of Lord Brougham's on the same subject." "The Act," says Mr. Macqueen, "contains some good and some strange clauses. The good are almost wholly borrowed from the Scotch law. They are very important; and admit of being applied to purposes perhaps not yet fully appreciated by the legal profession." One of the main objections which Mr. Macqueen points out is the absence of a clause authorising suits of bastardy. It appears that in Scotland the "declarator of bastardy," is an ancient remedy much regarded. "If," says Mr. Macqueen, "the person sought to be bastardized is under age, the court appoints a guardian *ad litem*; and a period is allowed after majority within which the bastard must impeach the decree, or be foreclosed. The period seems longer than necessary; but is distinguished by the appropriate title of the *quadriennium utile*."

Mr. Macqueen informs us that in Mr. Hayne's divorce case, which came on before the House of Lords in 1829, it was proposed to examine witnesses in support of a clause to bastardise a particular child. Lord Redesdale, however, objected, on the ground that there was no person in attendance to watch the interests of the child, adding that the matter must be left until the child should be of age to defend its own supposed rights; but that, to prevent the evidence being lost, and to give the petitioner the benefit he might thereafter be unable to derive from it, the House would permit the evidence to be received. Mr. Macqueen recommends this precedent to the attention of the Divorce Court, even where it may not think proper, or where it may not be called upon to make a declaration of bastardy, supposing the jurisdiction to do so should ever be conferred upon it. Notwithstanding our respect for Mr. Macqueen as a lawyer, especially in all that relates to the subject matter of his new work, we feel bound to express our dissent from this recommendation. Under any circumstances, it appears to be a harsh proceeding to impose upon a person of immature age the duty of proving for all time that he is not a bastard. Even though he may be allowed, after he comes of age, to impeach the decree, in many cases, such a task must be hopeless. Twenty years of minority may have removed every important witness out of his reach. Thus, while he is incapable of defending his own rights, there may be thrown upon him the burden of proving what mere lapse of time has rendered incapable of proof.

But however much we may feel compelled to differ from Mr. Macqueen upon a few points, such as we have just alluded to, and upon the question of the universal superiority of Scotch law, we are bound to award to him the praise of having written the best and most useful treatise that has yet appeared on the law of divorce. The book will be instructive to lawyers, and edifying to laymen. After consulting it during the day on the service of a citation, it will supply amusing topics for conversation after dinner, and is (externally at all events) fit to lie on the drawing-room table, especially in circles where the rights of women are not forgotten.

Caution to Commissioners for Taking Affidavits.—On the hearing of a petition of appeal in bankruptcy before the Lords Justices on Saturday last, an affidavit was referred to, which the deponent had signed by a mark, and the country commissioner before whom it was sworn had omitted to certify in the jurat that the affidavit had been read over to the deponent, and that she appeared to understand it—whereupon Lord Justice Knight Bruce directed the commissioner to be written to, and informed of his duty in future. It appears that the practice in the Court of Chancery is not to permit such affidavits to be filed at all, but through some inadvertency in the bankruptcy registrar's office, the affidavit in question had been filed, and an office copy granted. The same rule exists in the law courts as to affidavits signed by marksmen and illiterate persons, and it behoves all chancery and common law commissioners for taking affidavits for the future to be careful as to the rule in question on affidavits being brought to them to be sworn.

The revenue of the Court of Probate, from fees and otherwise, was in 1858, £51,813. 0*s.* 6*d.*; in 1859, £52,657. 16*s.* The revenue of the Court of Divorce was £1,549. 18*s.* 6*d.* in 1858, and £2,414. 8*s.* in 1859.

English Funds and Railway Stock.

(Last Official Quotation during the week ending Friday evening.)

	English Funds.	
	Bank Stock	228½
	3 per Cent. Red. Ann..	93⅝
	3 per Cent. Cons. Ann.	93⅝
	New 3 per Cent. Ann..	92⅝
	New 2½ per Cent. Ann.	..
	Consols for account ..	93⅝
	Long Ann. (exp. Apr. 5, 1885)	16⅜
	India Debentures, 1858.	97
	Ditto 1859.	97
	India Stock	217
	India Loan Scrip.	..
	India 5 per Cent. 1859..	104⅜
	India Bonds (£1000) ..	97
	Do. (under £1000).....	3 dis.
	Exch. Bills (£1000)...	4 pm.
	Ditto (£500)....	4 pm.
	Ditto (Small) ..	4 pm.

Shrs.	Railway Stock.	
Stock	Birk. Lan. & Ch. Junc.	80
Stock	Bristol and Exeter....	106
Stock	Caledonian	95
20	Cornwall	7
Stock	East Anglian	16½
Stock	Eastern Counties	57
Stock	Eastern Union A. Stock	39
Stock	Ditto B. Stock....	28
Stock	East Lancashire	..
Stock	Edinburgh & Glasgow.	78½
Stock	Edin. Perth, & Dundee	31
Stock	Glasgow and South-Western	106
Stock	Great Northern	116½
Stock	Ditto A. Stock	116½
Stock	Ditto B. Stock....	135
Stock	Gt. Southn. & Westn. (Ireland)	115
Stock	Great Western	71⅝
Stock	Lancaster and Carlisle.	..
	Ditto Thirds..	..
	Ditto New Thirds..	..
Stock	Lancash. & Yorkshire	109

Shrs.	Railways—*Continued.*	
Stock	London and Blackwall.	70½
Stock	Lon. Brighton & S. Coast	115½
25	Lon. Chatham & Dover	12
Stock	London and N.-Wstrn..	103
	Ditto Eighths	12
Stock	London & S.-Westrn.	96
Stock	Man. Sheff. & Lincoln..	42
Stock	Midland	121
	Ditto Birm. & Derby	98
Stock	Norfolk	86½
Stock	North British	64½
Stock	North-Eastn. (Brwck.)	99
Stock	Ditto Leeds	82
Stock	Ditto York	83
Stock	North London.....	106
Stock	Oxford, Worcester, & Wolverhampton ..	46
20	Portsmouth.....	16
Stock	Scottish Central.....	117
Stock	Scot. N. E. Aberdeen Stock	32½
Stock	Do. Scotsh. Mid. Stk.	88
Stock	Shropshire Union	52
Stock	South Devon	46½
Stock	South-Eastern	86½
Stock	South Wales	69
Stock	S. Yorkshire & R. Dun	81
25	Stockton & Darlington	42
Stock	Vale of Neath	55
	Lines at Fixed Rentals.	
Stock	Buckinghamshire	96
Stock	Chester and Holyhead.	52½
Stock	Ditto 5½ per Cent...	129
Stock	Ditto 5 per Cent ..	115
Stock	East Lincoln, guar. 6 per Cent	140
50	Hull and Selby	114
Stock	London and Greenwich	64
Stock	Ditto Preference..	120
Stock	Lon., Tilbury, & Sthend ..	93
Stock	Shrewsbury & Herefd.	104½
Stock	Wilts and Somerset ..	93

Births, Marriages, and Deaths.

BIRTHS.

COOPER—On July 19, at Henley-on-Thames, the wife of John Cooper Esq., Solicitor, of a daughter.

CHUBB—On July 24, the wife of William Chubb, Esq., Solicitor, of Gray's-inn, of a son.

CLARKE—On July 20, the wife of Samuel T. Clarke, Esq., Solicitor, of a daughter.

PAYNE—On July 13, the wife of George Augustus Payne, Esq., M.A., Barrister-at-Law, of a son.

TEMPLE—On July 22, the wife of William Woods Temple, Esq., Solicitor, of a daughter.

MARRIAGES.

GRAY—KEEVIL—On July 17, Emma S. Eckley, eldest daughter of W. G. Cray, Solicitor, formerly of Bath, to R. A. Keevil, Esq., York-buildings, Clifton.

GWYER—TIBBITS—On July 18, Joseph Gwyer, jun., Esq., Solicitor, of Bristol, to Maria, elder surviving daughter of W. B. Tibbits, Esq., of Bower Ashton.

LANCHESTER—DIMSDALE—On July 21, F. W. Lanchester, Esq., Solicitor, of Bognor, Sussex, to Caroline, widow of the late Henry F. Dimsdale, Esq., of the 11th Hussars.

MILNE—BURBRIDGE—On July 23, at Leicester, N. Milne, Esq., Manager of the Provincial Bank in that town, to Maria Vye, second daughter of the late T. Burbridge, Esq., Solicitor, of the same place.

DEATHS.

BADDELEY—On July 21, Hester, wife of Thomas Baddeley, Esq., of 48, Leman-street, Goodman's-fields, Solicitor.

CAMPBELL—On July 23, aged 21, Walter Campbell, Esq., scholar of Trinity College, eldest son of Charles Campbell, Esq., of Lincoln's-inn, Barrister-at-Law.

CORRIE—On July 23, Isabella Marguerite, the youngest child of William Corrie, Esq., Barrister-at-Law.

GREGORY—On July 23, John Swarbreck Gregory, Esq., in the 72nd year of his age.

HOLT—On July 19, at Great Yarmouth, George Wells Holt, Esq., Solicitor, aged 69.

KAIN—On July 25, at Berkeley Villa, Putney, Emma, wife of George James Kain, Esq., Law Accountant.

LAWSON—On July 23, John Mair Lawson, Esq., of No. 10, Austinfriars, Solicitor, aged 36.

Unclaimed Stock in the Bank of England.

The Amount of Stock heretofore standing in the following Names will be transferred to the Parties claiming the same, unless other Claimants appear within Three Months:—

Spooner, William, Archdeacon of Coventry, & Hon. Frederick Gough, of Perryhall, Staffordshire, £200: 12: 8 3 per Cents.—Claimed by Right Hon. Frederick Lord Calthorp, formerly Hon. Frederick Gough, the survivor.

TROUGHTON, MEDHURST, Esq., of Milton, HENRY DITCHBURN, Esq., of Gravesend, & JOHN BRENCHLEY, Esq., of Milton, £247:6:4 3 per Cents.—Claimed by MEDHURST TROUGHTON & HENRY DITCHBURN, the survivors.

Next of Kin.

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London Gazettes.

Windings-up of Joint Stock Companies.

UNLIMITED, IN CHANCERY.

TUESDAY, *July* 24, 1860.

LAKE BATHURST AUSTRALIAN GOLD MINING COMPANY.—V.C. Wood will proceed on Aug. 3, at 3, to settle the amended list of contributories of this company, distinguished as class B.

LAKE BATHURST AUSTRALIAN GOLD MINING COMPANY.—V.C. Wood will proceed on Aug. 3, at 3, to settle the list of contributories of this company, distinguished as class C.

MITRE GENERAL LIFE ASSURANCE ANNUITY AND FAMILY ENDOWMENT ASSOCIATION.—Petition to wind up presented to the Master of the Rolls, July 24. Sawbridge, Solicitor, Wood-street, Cheapside.

LIMITED IN BANKRUPTCY.

TUESDAY, *July* 24, 1860.

SEAMLESS LEATHER COMPANY (Limited).—Holroyd, Commissioner, hath appointed Aug. 17, at 12, Basinghall-street, to settle the list of contributors of the Company.

UNLIMITED IN CHANCERY.

FRIDAY, *July* 27, 1860.

CAXTON LIFE ASSURANCE SOCIETY.—Peremptory order for a call of £2 per share on all contributories, to be paid on or before the 30th July, to Robert Palmer Harding, Official Manager, 5, Serle-street, Lincoln's-inn, Middlesex.

EAST DEAN COAL AND IRON MINING COMPANY.—V.C. Kindersley purposes, on August 3, at 12, to proceed to make a call on all contributories for £3 per share.

GREAT WESTERN COAL COMPANY.—V.C. Kindersley has appointed George Harvey Jay, Accountant, Official Manager of this company, 3, Moorgate-street, London.

ROSHERVILLE GARDENS COMPANY.—V.C. Wood will, on August 7, at 1, proceed to make a call on contributories for £1 per share.

LIMITED IN BANKRUPTCY.

FRIDAY, *July* 27, 1860.

WEEDON AND LEAMINGTON RAILWAY COMPANY (LIMITED).—Com. Fane has appointed Aug. 11, at 11.30, at Basinghall-street, for creditors to prove their debts.

Creditors under 22 & 23 Vict. cap. 35.

Last Day of Claim.

TUESDAY, *July* 24, 1860.

BUCKLEY, JOHN STONEHAM, Shipowner, Wisbeach, St. Peters, Isle of Ely, Cambridgeshire (who died on Aug. 3). Collins, Solicitor. Sep. 29.

CLARKE, FRANCIS WILLIAM, Yeoman, Parkhead, Kendal, Westmorland (who died on Jan. 18, 1860). Harrison & Son, Solicitors, Kendal, Sep. 1.

ELGIE, FREDERICK THOMAS, Solicitor, Worcester (who died in or about July, 1858). Jones, Solicitor, 23, Foregate-street, Worcester. Aug. 25.

OXLEY, JOHN, Farmer, Orgreave, Rotherham, Yorkshire (who died Jan. 4, 1860). Shepherd, Solicitor, Barnsley. Oct. 30.

PARKES, GEORGE, Manufacturer, Bristol-road and Paradise-street, Birmingham (who died on March 2, 1857). Hill, Solicitor, 1, Cherry-street, Birmingham. Sep. 30.

WHITMARSH, JOHN, Royal Hospital, Greenwich, Kent (who died on June 5, 1860). Lloyd & Chevalier, Solicitors, 73, Chancery-lane, London. Aug. 1.

WOODS, JOSEPH, Corn and Flour Dealer, & Livery Stable Keeper and Job Master, 1, Kenipshall-terrace, Kilburn, Middlesex (who died on July 18, 1859). Bicknell & Bicknell, Solicitors, 79, Connaught-terrace, Edgware-road, Middlesex. Sep. 1.

FRIDAY, *July* 27, 1860.

BISHOP, HARRY GEORGE, a Captain in the Madras Artillery, formerly of 32, Gloucester-terrace, Hyde-park, Middlesex, and late of 13, Maida-hill West (who died on April 29, 1860). Church, Langdale, and Prior, Solicitors, 38, Southampton-buildings, Chancery-lane, London. Oct. 1.

BOREADAILE, JOHN WATSON, Esq., Blackheath, Kent (who died on Aug. 12, 1859). Lowless & Nelson, Solicitors, 2, Hatton-court, Threadneedle-street, London. Sep. 1.

COSSON, HENRY, Licensed Victualler, late of the Blue Last, Curtain-road, and also of 26, Medina Villas, Dalston-lane, Middlesex (who died on April, 5, 1860). Norcutt, Solicitor, 11, Gray's-inn-square. Sep. 1.

DEPLEDGE, WILLIAM, Joiner, Wakefield, Yorkshire (who died on Dec. 20, 1859). Whitham, Solicitor, Wakefield. Nov. 1.

MACDONALD, PETER, Oil & Colourman, 15, Shoe-lane, London (who died on Feb. 13, 1858). Willoughby, Cox, & Lord, 13, Clifford's-inn, Fleet-street, London. Sep. 5.

MANN, WILLIAM, Grocer & Seedsman, Thirsk, Yorkshire (who died on Feb. 25, 1860). Rider, Solicitor, Thirsk. Sep. 29.

MARRIOTT, SOPHIA CATHERINE, Spinster, Newton House, Clifton-upon-Dunsmore, Warwickshire (who died on Jan. 4, 1860), W. & E. Harris, Solicitors, Rugby, Warwickshire, Aug. 1.

MAYNARD, EDWARD, Architect & Surveyor, Eastbourne, Sussex (who died on Oct. 13, 1859). Gell & Son, Solicitors, Lewes, Sussex. Sept. 1.

PARKINSON, JOHN, Esq., formerly of Kinnersley Castle, Hereford, and late of Jersey (who died on Oct. 12, 1859). Fladgate, Young, & Jackson, Solicitor, 12, Essex-street, Strand, Middlesex. Oct. 20.

SHERWIN, SARAH, Widow, 6, Thurlow-place, Hackney-road, Middlesex (who died on April 5, 1860). Willoughby, Cox, & Lord, Solicitors, 13, Clifford's-inn, Fleet-street, London. Sept. 5.

WALDEY, THOMAS CHERRY, Farmer, Reed, Hertfordshire (who died on Aug. 26, 1858). Turnall & Nash, Solicitors, Royston. Within two calendar months.

WILD, THOMAS HARRISON, Plumber & Glazier, Wakefield, Yorkshire (who died on Feb. 24, 1860). Harrison & Son, Solicitors, Wakefield. Oct. 1.

Creditors under Estates in Chancery.

Last Day of Proof.

TUESDAY, *July* 24, 1860

COURT, THOMAS, Farmer, Earlswood, Tamworth, Warwickshire (who died on Jan. 14, 1860). Court *v.* Court and Others, V.C. Wood. Aug. 6.

FREAD, ELIZABETH, Spinster, 30, Park-road, St. John's-wood, Middlesex (who died on March 3, 1859). Miller *v.* Heane and Another, V.C. Stuart. Nov. 5.

MOORES, WILLIAM HENRY, Cabinet Maker, Northampton (who died on July 29, 1859). Warwick *v.* Mills, V.C. Stuart. Nov. 1.

FRIDAY, *July* 27, 1860.

BARTLEY, DAME JESSEY, 51, Brompton-row, Middlesex (who died Nov., 1857). Dennis *v.* Hart & Others, V. C. Stuart. Nov. 6.

CORBETT, WILLIAM, Gent., Honeyborne Grounds, Cowhoneyborne, Gloucestershire (who died in March, 1848). Ransford *v.* Griffiths, V. C. Wood. Nov. 5.

MORRISON, WILLIAM, Leather Merchant, Bermondsey, Surrey (who died on or about Feb. 18, 1854). In the matter of William Morrison, M. R. August 9.

SMITH, JAMES, Solicitor, Maidenhead, Berkshire (who died in May, 1860). Jones *v.* Smith, V. C. Stuart. Nov. 9.

SMITH, THOMAS, Gent., Highnam, Churcham, Gloucestershire (who died in September, 1839). Smith & Another *v.* Smith & Others, V. C. Stuart. Nov. 2.

WALKER, CHARLES EDMUND, Gent., 39A, Doddington-grove, Kennington-park, Surrey (who died in December, 1857). Blackman *v.* Walker, V. C. Kindersley. Nov. 6.

Assignments for Benefit of Creditors.

TUESDAY, *July* 24, 1860.

JAMES, GEORGE, Draper & Grocer, Kingston Blount, Oxfordshire. July 12. *Trustees*, H. Hamp, Farmer, Little Kimble, Buckinghamshire; G. Myrton, Grocer, High Wycombe, Buckinghamshire. *Sols.* Pulley & Clarke, High Wycombe.

FRIDAY, *July* 27, 1860.

FOWLER, JAMES, Tailor & Draper, Tredegar, Monmouthshire. July 21. *Trustee*, C. Wathen, Wholesale Clothier, Bristol. *Sols.* King & Plummer, 5, Exchange-buildings East, Bristol.

GRIFFIN JAMES, JOSEPH GRIFFIN, & WILLIAM EBENEZER GRIFFIN, Saddlers & Harness Makers, 14, Church-street, Hackney; 13, Diddington-place, Caledonian-road, and Lower Clapton, and 4, Bazaar-place, Bull's-pond-road, Middlesex. July 19. *Trustees*, C. & B. Gadsden, Wholesale Saddlers' Ironmongers, Union-street, Bishopsgate-street. *Sol.* Burkitt, Curriers' Hall, London-wall, London.

HAYNES, SAMUEL NIXON, Grocer & Provision Dealer, Leek, Staffordshire. July 12. *Trustees*, J. Bennett, Agent, Manchester; J. Wood, Corn Merchant, Manchester. *Sols.* Hacker & Bloore, Leek.

ROBERTS, THOMAS, Builder & Contractor, Neath Abbey, Glamorganshire. July 23. *Trustee*, J. Williams, Timber Merchant, Neath. *Sol.* Goodere, Swansea.

SHORTER, WILLIAM HENRY, Draper, 18, Whitechapel-road, Middlesex. July 5. *Trustee*, C. J. Leaf, Warehouseman, Old Change, London. *Sol.* Jones, 15, Size-lane, London.

TILDESLEY, CHARLES, Draper, Willenhall, Staffordshire. July 16. *Trustee*, G. F. Tildesley, Iron Dealer, Willenhall. *Sol.* Parkes, Wolverhampton.

WHITEHOUSE, ARTHUR WATKINS, & ELISHA CADDICK, Soap Manufacturers, Lea Brook, Tipton, Staffordshire (Whitehouse & Caddick). July 7. *Trustees*, C. H. Prichard, Oil Merchant, Bristol; T. W. Rowland, Merchant's Clerk, Bristol. *Sol.* Knight, Birmingham.

Bankrupts.

TUESDAY, *July* 24, 1860.

ATTWOOD, JESSE, Victualler & Corn Dealer, Bull-inn, Newington, Sittingbourne, Kent. *Com.* Holroyd: Aug. 6, at 11; and Sept. 11, at 2; Basinghall-street. *Off. Ass.* Edwards. *Sols.* Young & Plews, 29, Mark-lane, London. *Pet.* July 18.

COOK, WILLIAM, Coachbuilder & Harness Maker, 9, King-street, Regent-street, Middlesex (Cook, Rowley, & Co.) *Com.* Fane: Aug. 3, at 12; and Aug. 30, at 11; Basinghall-street. *Off. Ass.* Cannan. *Sol.* Sowton, 6, Gt. James-street, Bedford-row. *Pet.* July 23.

CUMMING, ANTHONY, jun., Merchant, Liverpool. *Com.* Perry: Aug. 3 and 29, at 11: Liverpool. *Off. Ass.* Cazenove. *Sols.* Keightley & Banning, 20, Castle-street, Liverpool. *Pet.* July 23,

EVANS, WILLIAM NATHANIEL, & ROBERT BUNCOMBE EVANS, Tanners, Colyton, Devonshire. *Com.* Andrews: Aug. 8, and Sept. 18, at 11; Exeter. *Off. Ass.* Hirtzel. *Sols.* Paine & Layton, Gresham House, Old Broad-street, London; or Moore, Head, & Venn, Exeter. *Pet.* July 13.

EYLES, JOHN FREDERIC, Printer, Publisher, & Stationer, 77, North-street, Brighton. *Com.* Holroyd: Aug. 7, at 11; and Sept. 4, at 2.30; Basinghall-street. *Off. Ass.* Lee. *Sols.* Lawrence, Plews, & Boyer, 14, Old Jewry-chambers, London. *Pet.* July 20.

GIBSON, WILLIAM GOODALL, Tanner, Godalming, Surrey. *Com.* Fane: Aug. 6, and Sept. 7, at 11; Basinghall-street. *Off. Ass.* Cannan. *Sols.* Linklaters & Hackwood, 7, Walbrook. *Pet.* July 24.

GOODALL, FREDERICK THOMAS, Money Scrivener, Manchester. Aug. 7 & 28, at 12; Manchester. *Off. Ass.* Fraser. *Sol.* Heywood, Manchester. *Pet.* July 13.

GREEN, JOHN, Commission Agent, 1, Philpot-lane, London. *Com.* Holroyd: July 30, at 1; and Sept. 4, at 12; Basinghall-street. *Off. Ass.* Lee. *Sols.* Miller & Horn, 9, George-yard, Lombard-street, London. *Pet.* July 18.

HUGHES, JOHN, Wire Drawer, Birmingham. *Com.* Sanders: Aug. 4, and Sept. 1, at 11: Birmingham. *Off. Ass.* Kinnear. *Sol.* Suckling, Birmingham. *Pet.* July 20.

HUNTER, DAVID, Merchant, 69, Cornhill, London. *Com.* Holroyd: Aug. 3, at 11; and Sept. 11, at 12; Basinghall-street. *Off. Ass.* Lee. *Sol.* Hindley, 10, Old Jewry, London. *Pet.* July 21.

JACKSON, ARTHUR, & RICHARD MICHELL EASTMAN, Brokers & Commission Agents, Liverpool. *Com.* Perry: Aug. 6 and 30; at 11; Liverpool. *Off. Ass.* Bird. *Sols.* Anderson & Collins, Liverpool. *Pet.* July 23.

JONES, WILLIAM, Tailor, Hosier, Hatter, & Outfitter, Aldershot, Hants (adjudged bankrupt, July 23.) *Com.* Holroyd: Aug. 7, at 11.30; and Sept. 11, at 1; Basinghall-street. *Off. Ass.* Edwards. *Sols.* Murless, 3, Gt. James-street, Bedford-row, London; or Hurford & Taylor, 5, Furnival's-inn, Holborn, London. *Pet.* June 26.

LAURENCE, THOMAS, & WILLIAM MORTIMORE, Hide Factors, St. Mary Axe, London (Streatfield, Laurence, & Mortimore.) *Com.* Holroyd: Aug. 4, and Sept. 18, at 11; Basinghall-street. *Off. Ass.* Lee. *Sols.* Murray, Son, & Hutchins, 11, Birchin-lane, London. *Pet.* July 21.

LEEVERS, ANN AMELIA, Hosier, Liverpool. *Com.* Perry: Aug. 6 and 30, at 11; Liverpool. *Off. Ass.* Bird. *Sols.* Evans, Son, & Sandys, Liverpool. *Pet.* July 20.

MARTIN, JOHN, Clothier, Outfitter, & General Dealer, Nottingham. *Com.* Sanders: Aug. 9 and 30, at 11.30; Nottingham. *Off. Ass.* Harris. *Sols.* Cowley & Everall, St. Peter's Church-walk, Nottingham. *Pet.* July 20.

PALIN, WILLIAM, & JOHN CRAVEN PALIN, Maltsters & Dealers in Grain, Chester. *Com.* Perry: Aug. 3 and 29, at 11; Liverpool. *Off. Ass.* Morgan. *Sols.* Fotsham & Goodman, Sweeting-street, Liverpool. *Pet.* July 23.

ROBINSON, MICHAEL HENRY, Tailor & Woollendraper, Wolverhampton. *Com.* Sanders: Aug. 3, & 24, at 11; Birmingham. *Off. Ass.* Whitmore. *Sols.* James & Knight Birmingham, or Robinson & Neve, Wolverhampton. *Pet.* July 21.

FRIDAY, *July* 27, 1860.

AAL, BERNARD, Tailor & Clothier, 2, Lambeth-street, Goodman's-fields, Whitechapel, Middlesex. *Com.* Fane: Aug. 8, at 11; and Sept. 7, at 11.30; Basinghall-street. *Off. Ass.* Cannan. *Sol.* Hewitt, 4, Princes-street, Bank. *Pet.* July 24.

BEEMAN, SAMUEL OTLEY, Wine, Spirit, & Beer Merchant, Coal Exchange Cellars, Lower Thames-street, London. *Com.* Fane: Aug. 8, at 11.30; and Sept. 7, at 12; Basinghall-street. *Off. Ass.* Cannan. *Sol.* Butler, jun., 191, Tooley-street, Southwark. *Pet.* July 25.

BENNETT, SAMUEL, Tailor, Draper, Dealer in Cigars, Tobacco, & Snuff, Nottingham. *Com.* Sanders: Aug. 9 & 30, at 11.30; Nottingham. *Off. Ass.* Harris. *Sols.* Cowley & Everall, Nottingham. *Pet.* July 26.

HEATHCOTE, EDWARD, Grocer, Rock Ferry, Chester. *Com.* Perry: Aug. 10 & 31, at 11; Liverpool. *Off. Ass.* Bird. *Sols.* Woodburn & Pemberton, Liverpool. *Pet.* July 26.

HOOPER, JOSEPH, Leather Merchant, New Weston-street, Bermondsey, Surrey. *Com.* Fane: August 8, at 12; and Sept. 7, at 1.30; Basinghall-street. *Off. Ass.* Whitmore. *Sol.* Abrahams, 17, Gresham-street. *Pet.* July 26.

JOSEPH, HENRY CHARLES, otherwise called and known by the name of CHARLES HENRY JOSEPH, Hotel and Eating House Keeper, 74 & 75, Strand, Middlesex. *Com.* Fane: August 3, at 1.30; and Sept. 7, at 1; Basinghall-street. *Off. Ass.* Whitmore. *Sol.* Stubbs, 46, Moorgate-street. *Pet.* July 18.

LAWSON, JOSEPH, Ship and Insurance Broker, 166, Fenchurch-street, London. *Com.* Holroyd: August 7, at 11; and Sept. 11, at 12.30; Basinghall-street. *Off. Ass.* Edwards. *Sol.* Chidley, 10, Basinghall-street. *Pet.* July 17.

LEEVERS, ANN AMELIA, Hosier, Liverpool. *Com.* Perry: August 6 & 30, at 11; Liverpool. *Off. Ass.* Bird. *Sols.* Reed, 3, Gresham-street, London, or Evans, Son, & Sandys, Liverpool. *Pet.* July 20.

OSBORNE, WILLIAM, Printer, Bookseller, & Stationer, Birkenhead, Cheshire. *Com.* Perry: August 8 & 29, at 11; Liverpool. *Off. Ass.* Morgan. *Sols.* Rymer, Harrington-street, Liverpool. *Pet.* July 18.

PALMER, THOMAS, & SAMUEL PALMER, Drapers, 30, Old Town-street, Plymouth. *Com.* Andrews: August 9, and Sept. 3, at 12.30; Plymouth. *Off. Ass* Hirtzell. *Sols.* Beer & Rundell, Devonport, or Hartnoll, Exeter. *Pet.* July 18.

POUNTNEY, THOMAS ELVIUS, Licensed Victualler, Bromsgrove, Worcestershire. *Com.* Sanders: August 17, and Sept. 7, at 11; Birmingham. *Off. Ass.* Whitmore. *Sols.* James & Knight, Birmingham, or Scott, Bromsgrove. *Pet.* July 26.

SCHRADER, FRANCIS BENJAMIN, Leather and Hide Factor, Liverpool, Lancashire (Laurence, Mortimer, & Co.) *Com* Holroyd: August 9, at 1; and Sept. 18: Basinghall-street. *Off. Ass.* Lee. *Sols.* Murray, Son, & Hutchins, 11, Birchin-lane, London. *Pet.* July 21.

STEVENSON, GEORGE, Shoe Manufacturer, Keele, Staffordshire. *Com.* Sanders: August 6 and 29, at 11, Birmingham. *Off. Ass.* Kinnear. *Sols.* Slaney & Winstanley, Newcastle-under-Lyme; or James & Knight, Birmingham. *Pet.* July 19.

WRIGHT, ELIZABETH, Lodging-house Keeper, Higher Broughton, Manchester. *Com.* Jemmett: August 7 and 28, at 12. *Off. Ass.* Pott. *Sol.* Smyth, Manchester. *Pet.* July 17.

BANKRUPTCY ANNULLED.

FRIDAY, *July* 27, 1860.

KING, CHARLES LUSH, Tailor & Hatter, 4, Pier-terrace, Ryde, Isle of Wight. July 19.

MEETINGS FOR PROOF OF DEBTS.

TUESDAY, *July* 24, 1860.

AVERY, WILLIAM, Ship Owner & Merchant, Bristol. Aug. 16, at 11; Bristol.—BOWDEN, MARK, Flint Glass and Looking Glass Manufacturer & Glass Cutter, Bristol (Mark Bowden & Co.). Aug. 17, at 11; Bristol.—BRADBURY, MATTHEW, & GEORGE WEAVER, Drapers, Clothiers, & Tailors, Tunstall, Staffordshire. Aug. 24, at 11; Birmingham.—CHURCHOUSE, THOMAS, Grocer & Shopkeeper, Briton Ferry, Neath, Glamorganshire. Aug. 23, at 11; Bristol.—DAVIS, JOHN STOAT, Flour Merchant & Corn Factor, Cardiff, Glamorganshire. Aug. 16, at 11; Bristol.—FORRESTER, WILLIAM, Iron Merchant, Hanley, Staffordshire. Aug. 24, at 11; Birmingham.—HAMILTON, JOHN WATSON, Stock & Share Broker, Birmingham, Warwickshire. Aug. 24, at 11; Birmingham.—HILLS, JONATHAN, & ROBERT HILLS, Bankers, High-street, Gravesend, and at High-street, Dartford, Kent (Jonathan Hills & Son). Aug. 3, at 11; Basinghall-street.—LAKE, GEORGE, Hat Manufacturer, Stockport, Chester. Aug. 10, at 12; Manchester.—LOWE, JOHN, Printer & Publisher of the *Cheltenham Chronicle*, Cheltenham, Gloucestershire. Aug. 16, at 11; Bristol.

FRIDAY, *July* 27, 1860.

BAXTER, WILLIAM ROBERT, & FREDERICK GEORGE BAXTER, Curriers & Leather Merchants, Constitution-hill, Birmingham (Baxter, Brothers). Aug. 20, at 11; Birmingham.—BELL, WILLIAM MONCRIEFF, Druggist, Liverpool. Aug. 22, at 11; Liverpool.—COX, WILLIAM, Lath Maker & Shopkeeper, Great George-street, Weymouth. Aug. 30, at 11; Exeter.

CERTIFICATES.

To be ALLOWED, *unless Notice be given, and Cause shown on Day of Meeting*

TUESDAY, *July* 24, 1860.

AYDON, ELIZABETH, & THOMAS WILLIAM FERGUSSON, Grocers & Tea Dealers, Newcastle-upon-Tyne (Aydon & Fergusson). Aug. 17, at 11; Newcastle-upon-Tyne.—BOTHWELL, SAMUEL, Builder, Dorking, Surrey. Aug. 15, at 1; Basinghall-street.—BRAY, CHARLES, Ironmonger, 14, Alfred-terrace, Queen's-road, Bayswater, Middlesex. Aug. 14, at 12; Basinghall-street.—FOX, JOEL, Furrier, Gentleman's-walk, Norwich. Aug. 16, at 12; Basinghall-street.—HUGHES, JOHN, Licensed Victualler, Liverpool. Aug. 10, at 12; Liverpool.—MILNER, THOMAS WILLIAM, Surveyor & Builder, 18, Queen-street, Cheapside, London, and Canterbury-grove, Lower Norwood, Surrey. Aug. 15, at 11.30; Basinghall-street.—MURLEY, JOHN, Carriage and Cab Builder, St. Chad's Wells, Gray's-inn-road, Middlesex. Aug. 15, at 12; Basinghall-street.—PARMORE, GEORGE, jun., Shoe Manufacturer, Northampton. Aug. 14, at 12.30; Basinghall-street.—OLD, EDWARD HESELTINE, & JAMES PEARSON, Hat & Cap Manufacturers, Kingston-upon-Hull. Aug. 22, at 12; Kingston-upon-Hull.—WILLSON, GEORGE, Clock & Watch Maker, Lincoln. Aug. 15, at 12; Kingston-upon-Hull.

FRIDAY, *July* 27, 1860.

ALLEN, THOMAS, Corn Factor & Seedsman, Newport, Monmouthshire. Aug. 21, at 11; Bristol.—BLACK, WILLIAM, Prospect House, Charles-street, St. James's-road, Holloway, Middlesex. Aug. 17, at 12.30; Basinghall-street.—EYRE, JOSHUA, Silk Manufacturer, Chowbent, Leigh, Lancashire. Aug. 23, at 12; Manchester.—FAVELL, STEPHEN, Coach Builder, Bourn, Lincolnshire. Sept. 12, at 11.30; Nottingham.—JONES, CHARLES, Sail Maker & Ship Owner, Gloucester. Aug. 31, at 11; Bristol.—LEWIS, THOMAS, Ironmonger, Abergavenny, Monmouthshire. Aug. 20, at 11; Bristol.—MCCLURE, JAMES, jun., Manchester Warehouseman, Manchester. Aug. 30, at 12; Manchester.—MOWBRAY, JOHN, Miller & Baker, Sherwood Rise. Sep. 12; at 11.30; Nottingham.—POWNCEBY, HENRY, Printer, 43, Leman-street, Whitechapel, Middlesex. Aug. 17, at 11; Basinghall-street.—WRIGHT, SAMUEL, Hotel & Tavern Keeper, Manchester. Aug. 31, at 12; Manchester.

To be DELIVERED, *unless* APPEAL *be duly entered.*

TUESDAY, *July* 24, 1860.

ALLEN, JOHN, Boot and Shoe Manufacturer, 11, Broadway, Deptford, Kent, and 1, Gray Eagle-street, Spitalfields, Middlesex. July 11, after a suspension of eighteen months from 9th November, 1859, 3rd class.—ASHBY, JOHN, Builder, 14, Carlisle-street, Soho-square, Middlesex. July 9, 2nd class.—BISHOP, DAVID WILLIAMS, & JOHN FOX FARBRIDGE, East India Merchants, 69, Cornhill, London. July 17, after a suspension for three years from June 22, 1860, 3rd class.—BOOTH, GEORGE, Provision Merchant, 21, Holmes-terrace, Kentish Town, Middlesex. July 13, after a suspension for two months from that day, 2nd class.—CLAYTON, EPAPHRAS, Grocer and Provision Dealer, Openshaw, Manchester. July 18, 2nd class.—COLLINGBOURNE, HENRY, Ribbon & Trimming Manufacturer, Vauxhall Mills, Foleshill, Coventry. July 23, 3rd class.—COWELL, MATTHEW HENRY, & CHARLES BROCK, Licensed Brewers, Castle Brewery, St. George's-road, Southwark, Surrey. July 9, after a suspension of twelve months from last examination, 2nd class.—DAVIS, THOMAS, Hotel Keeper, 11, Chapel-street, St. George-the-Martyr, Middlesex, heretofore of Great Malvern, Worcestershire. July 11, 3rd class.—FOWLES, FRANCIS JOHN, & HENRY HUNTER, Oil & Soap & General Merchants & Manufacturers, 16, Water-lane, London, but now of St. James-street, Hatcham, Surrey, and 15, Rood-lane, London. July 19, 2nd class.—LANCEY, JOHN, Linen Draper, Barnstaple, Devonshire. July 18, 1st class.—NOBLE, GEORGE CHARLES, Builder & Beer-house Keeper, Broad-lane, Northampton. July 13, 3rd class.—SEAGER, WILLIAM, Builder, 3, Phillips-place, Shooter's-hill-road, Greenwich, Kent. July 13, 2nd class.—SMITH, EDWARD, Printer & Stationer, Birmingham. July 23, 2nd class.—STUBLEY, THOMAS, Licensed Victualler & Coal Merchant, Harbury, near Southam, Warwickshire. July 20, 3rd class.—TURNER, RICHARD, Cabinet Maker & Upholsterer, Stoke-upon-Trent, Staffordshire. July 23, 3rd class.—UNDERWOOD, JOHN, Wholesale Stationer & Ink Manufacturer, McLean's-buildings, New-street-square, Shoe-lane, London (John Underwood & Co.) July 12, 2nd class.—WARWICK, CHARLES, Fancy Dress Warehouseman, 464, Friday-street, Cheapside, London (Charles Warwick, jun., & Co.) July 9, after a suspension of twelve months from May 11, 1858, 2nd class.

FRIDAY, *July* 27, 1860.

BOX, JOHN, & HENRY JOHN LEWIS, Corn Merchants, Gloucester. July 24, 2nd class.—HELLINGS, JAMES, Cowkeeper, 31, Edgware-road, Paddington, Middlesex. July 20, 1st class.—MILBURN, FREDERICK WILLIS, Boarding House Keeper & Victualler, 49, Westbourne-park-villas, Middlesex. July 20, 3rd class.—RAY, WILLIAM, Shipowner, formerly 2, Chesterford-terrace, St. Thomas's-square, Hackney, Middlesex, and afterwards of 3, Normas-terrace, Wellington-road, Stockwell, Surrey. July 18, 2nd class.—WEISSE, EMELIE, Milliner & Dress Maker, 72, Piccadilly, Middlesex. July 19, 2nd class.—WILLIAMS, JOHN, Surgeon & Apothecary, Pontypool, Monmouthshire. July 24, 1st class.—WILLIAMS, WILLIAM, Draper & Grocer, Mountain Ash, Glamorganshire. July 23, 3rd class.

Scotch Sequestrations.

TUESDAY, *July* 24, 1860.

FLEMING, JAMES, Farmer, Newton of Nydie, Fifeshire. July 30, at 12; Royal Hotel, Cupar Fife. *Seq.* July 19.

GRANT, MRS. ELIZA, Fyfe, or Ducat, 90, George-street, Edinburgh, relict of Major Dugald Ducat, 91st Regiment Foot. July 31, at 2; Dowell's and Lyon's Rooms, George-street, Edinburgh. *Seq.* July 23.

MACDONALD, NORMAN, Merchant, Sheildaig, Applecross, Ross-shire. Aug. 3, at 12; Robertson's National Hotel, Dingwall. *Seq.* July 21.

FRIDAY, *July* 27, 1860.

LOVIE, JAMES, Shipowner, Coal & Lime Merchant, and now or lately Fenar. Aug. 3, at 12; Saltoun Arms, Hotel, Fraserburgh. *Seq.* July 21.

MERRY, JOHN, Sen., Baker & Grain Dealer, Kilmarnock. Aug. 3, at 1; George Hotel, Portland-street, Kilmarnock. *Seq.* July 23.

SPENCE, ROBERT, & SONS, Tanners & Curriers, Linlithgow, and ROBERT SPENCE & ALEXANDER SPENCE, Individual Partners. Aug. 1, at 1; Dowell's & Lyon, 18, George-street, Edinburgh. *Seq.* July 23.

STEWART, GEORGE ROBERT, Commission & House Agent, Glasgow. Aug. 3, at 2; Globe-Hotel, George-square, Glasgow. *Seq.* July 23.